

An Appeal
to the people;
being a review
of the late correspondence
and documents
relating to the
rejection of
the British Minister.

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AN
APPEAL TO THE PEOPLE;
BEING
A REVIEW OF THE LATE CORRESPONDENCE
AND
DOCUMENTS,
RELATING TO THE
REJECTION OF THE BRITISH MINISTER:
INCLUDING
AN EXAMINATION
OF THE "ARRANGEMENT" OF APRIL LAST.

BY THE EDITOR OF THE NEW-YORK EVENING POST.

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CONTENTS.

	<i>Pages.</i>
<i>Introduction,</i>	1
<i>Further Frauds detected,</i>	5
<i>Further Frauds exposed,</i>	7
<i>A great Man introduced,</i>	10
<i>The sincerity, candour and fair dealing of a Minister put to the test,</i>	13
<i>Same subject continued,</i>	17
<i>Same subject continued,</i>	23
<i>The powers of a Minister,</i>	25
<i>Mr. Pinckney's and Mr. Cannings letters,</i>	31
<i>The "Inadmissible Insinuation," What was it? Where is it?</i>	36
<i>An artifice—A contemptible artifice,</i>	38
<i>The Correspondence,</i>	41
<i>Same subject continued,</i>	45
<i>The Arrangement itself,</i>	51
<i>The first condition,</i>	55
<i>Second condition,</i>	60
<i>Third condition,</i>	62
<i>General remarks introductory to interesting queries,</i>	66
<i>What were Mr. Madison's Powers?</i>	68
<i>The want of Powers on both sides, and the consequences resulting,</i>	72
<i>An interesting question examined and answered,</i>	74
<i>The "good faith" of our Government,</i>	78
<i>Introduction to the examination of Mr. Jackson's share of the correspondence,</i>	80
<i>Mr. Jackson's share of the correspondence considered,</i>	82
<i>Mr. Jackson's first letter,</i>	86
<i>Same subject continued,</i>	91
<i>The fatal insult,</i>	93
<i>Mr. Jackson's first Letter examined, with a view to discover the alleged Insult there,</i>	96
<i>Mr. Jackson's second Letter considered,</i>	99
<i>The arrangement in relation to the Chesapeake considered,</i>	104
<i>Mr. Jackson's third Letter,</i>	110
<i>The rupture and explanatory note,</i>	115
<i>Mr. Jackson's Circular Letter.—(Conclusion.)</i>	118



TO THE
PEOPLE OF THE UNITED STATES.

FAR from thinking that the late rash and desperate conduct of your government, in their rejection of the British embassy, can, at once be buried in silence and forgotten, I fear it is yet to be seen and felt in its most momentous consequences ;—I much fear that the time is yet to arrive, when that measure is more deeply than ever to interest, and more violently than ever to agitate all classes of the community. With a view, therefore, to prepare you for the anticipated period, when you will be called to decide upon it, and to pronounce your solemn verdict—I present to your serious and dispassionate consideration the ensuing essays, revised and corrected ;* together with some that have not before appeared in print.—Although it may seem, at first glance, that their object is merely to criticise the late official correspondence, yet, I trust, it will be found, that in doing so, they go much further.—In their original composition, in re-writing most of them, and in carefully conducting them a second time through the press, the labour of more than two months, with little intermission, has been bestowed upon them ; but, if their effect shall only be to convince every reader, that the pretence for the rupture with Mr. Jackson is altogether frivolous and unfounded ; and, that that minister is “*a man more sinned against than sinning*,” I should have, with mortification, to acknowledge, that this labour has been bestowed to but little use, and that those essays will have failed of their ultimate purpose.—I confess I have been ambitious of accomplishing an object beyond this.—Had I had nothing else before me, than to show, that, not only no public minister was ever so disrespectfully dealt with, but that no private gentleman was ever so personally aggrieved, I should, long since, have dismissed the subject, as considering my object attained. Nor should I now take the trouble to send these essays forth to you, in a form, as I hope, more worthy your acceptance, did I not venture to flatter myself that they will be found to contribute to a timely and salutary exposure both of public men and measures ; that they support a true construction of an important provision in the constitution, which has been boldly and sacrilegiously invaded by the President, in grasping at the whole of the treaty-making power, divided by that instrument between the Executive and the Senate ; and lastly, that they rescue certain

* Originally published in the *New-York Evening Post*.

important points in the established law of nations, from attempts to innovate upon them ;—considerations, which may possibly render them of some estimation, after the occurrence which gave birth to them shall have ceased to occupy attention.

Our present rulers are men wholly unfit to govern the country ; men without real capacity, sincerity, or honesty :—whose capacity consists in low craft—who are sincere only in an inordinate and unprincipled lust of power and place, which, by whatever base arts acquired, they are determined, at all hazards, to hold fast ;—and whose honesty is only to be found in the Jacobin homily, which the cut-throats of Paris, if they had not the credit to invent, had the audacity first to avow and promulgate, that “*the end justifies the means.*”—The confined limits allowed in the discussion of the subject thrown directly before me, would hardly permit me to bring these topics into distinct consideration ; but, I think that I claim not too much when I say, that they present themselves at every step in our course. I think, more particularly, that it must be obvious to every reflecting reader, that the men in power compose an administration solely political ; neither commercial nor agricultural ; for “commerce and agriculture, (as the great Hamilton once said, with equal truth and beauty,) are more than twin-sisters ; they are not only born, but they die together.”—The present administration, I repeat it, and it is a truth of which you ought to be fully convinced, are neither commercial nor agricultural, but singly and exclusively political ; that is, singly and exclusively intent on keeping the reins of government in their own hands.—And so long as they are permitted to do this, it would be nothing short of the wildest credulity to look for any sincere adjustment of our differences with Great Britain, eagerly as the people of both countries desire it ; or any serious, well-directed efforts to restore, and fix upon a stable basis, the shattered commercial interests of this country.—Whether the people, east of the Hudson, at least, will continue to afford a blind and infatuated support to these men, after being once clearly convinced, that such are the selfish and unworthy principles by which they are actuated, and such the objects, which only, they have in view, will be for their consideration on a day not far distant ; the day, when they will, once more, be called upon to exercise the elective franchise ; and which, I trust, they will exercise with real intelligence, and a true independence of spirit.

A few observations on the conduct and views of the Executive, as to our foreign relations, shall close this introductory Address.

Long before Mr. Jackson's arrival in this country, observing and reflecting men, were every where convinced, that it was the settled determination of the administration to make with him no terms whatever.—The semi-official paper, at Washington, was the first to caution the public against indulging in too sanguine

hopes, as to the ratification of the April arrangement, in London: and, by way of preparing the factious part of the community for what the administration was morally certain would happen, care was taken, at an early day, and long before word was received from England, to remark, that a settlement of our differences with *both England and France, was not to be expected.*—To this succeeded the most indecent and scandalous newspaper publications against the proposed British minister: And lastly, (a proceeding on which I particularly desire to fix attention;) it was so contrived, that formal addresses should be sent to the President from various parts of the United States, drawn up in the most inflammatory and improper terms, and making the most unjust and unwarrantable imputations on the British government. These were immediately answered in a suitable manner; and the whole sent forth in the newspapers, to produce an improper bias on the public mind. From one of these addresses, now lying before me, I give an extract, as a sample of the rest; and subjoin an extract from the “*Answer of the President.*”

“At a numerous and respectable meeting of the Republican citizens of the county of Washington, in the State of New-York, held at the court house at Sandy-hill, on the 14th of Sept. 1809, the following address was unanimously adopted and ordered to be forwarded by the Chairman and Secretary.

“TO JAMES MADISON,

“PRESIDENT OF THE UNITED STATES.

“SIR,

“While we feel a just indignation at the crooked, faithless, and jesuitical policy, which has no longer [so long] marked the conduct of the present Ministry of Great Britain, especially in the late disavowal of the authority of Mr. Erskine, thereby refusing to do us the most obvious and unquestionable justice, we solemnly pledge ourselves to your excellency, to our fellow citizens, and to the world, that we will support our government in whatever measures shall be necessary, to redress those injuries already sustained, to redeem our national honour from the reproach which has already been cast upon it; and hereafter to force respect, for our rights from those governments which, from an habitual practice of violence and fraud among themselves, have forgot the plainest dictates of morality and justice.”

Extract from the “President’s Answer.”

To the Republican Citizens of the County of Washington, in the state of New-York,

“I have received, fellow citizens, your address of the 14th of September, with a just sense of the favourable manner in which it reviews the course pursued by the Administration, first in the relation to the arrangement made in April, with the Minister Plenipotentiary of his Britannic Majesty, and next in consequence of the disavowal of that arrangement.

“Whatever may be the sequel of this abortive result to a transaction, so reasonable in its terms, and so suspicious in its tendencies, it is a consoling reflection, that the United States will have given the most incontestible evidence of that conciliatory disposition by which they have been constantly guided: and that it may, the more confidently be expected, that all *true friends* to their country, sacrificing the spirit of party, to its honour and its welfare, will unite on whatever measures the maintenance of these may call for.”

Had the British government seen the above, before Mr. Jackson set out on his mission, they might, and assuredly would, have spared themselves the trouble of sending a Minister across the Atlantic,

with any possible proffers in their power to devise. Let it be recollected that this was long after our government had received through Mr. Pinckney, the explanation of the disavowal accompanied with the January despatch, showing upon the face of it, that Mr. Erskine had violated his instructions; and consequently, after Mr. Madison was perfectly satisfied that the King, in disavowing the arrangement, had only exercised a right secured to him by the law of nations, and could be liable to no reproach from us. These facts speak a language too intelligible to be misunderstood by the narrowest capacity—But if any thing more is wanting to show that the administration was obstinately bent on coming to no accommodation, of any practicable sort, with Great Britain, it may be found in the following hitherto unnoticed extract from Mr. Smith's letter of November 23d, to Mr. Pinckney:

“3d. That as this condition is allowed to have originated in a supposition that it would be agreeable to the American government, why has it been persisted in, after the error was made known by the representation of Mr. Erskine to his government, that neither this, nor—THE OTHER conditions of the despatch of the 23d of January, were attainable here.”

In this place I shall not detain the reader, but only with confidence refer him to the essay, entitled “*First Condition*,” page 55, where it will be manifest, that, of the “OTHER CONDITIONS,” one (the first) originated with Mr. Jefferson, was adopted by Mr. Madison, Mr. Smith and Mr. Gallatin; by them proffered to Mr. Erskine, by him sent to Mr. Canning, and by Mr. Canning copied into the January despatch; and yet, this very condition, after having been acceded to on the part of Great Britain, at our own suggestion and request, Mr. Smith, has now, acknowledged, was never “attainable here.”—The remark is almost superfluous, that, if the Administration would not agree to their own proposals, when returned to them, without the slightest alteration, it could hardly be expected that they would agree to any other.

But why is it that this administration are thus resolved on avoiding an adjustment with Great Britain?—First, because their own miserable popularity depends on keeping up, against her, the public prejudice, and alive, the public hatred; without which they would lose all the advantage they reap from the stupid cry of Tory!—Secondly, because the *Emperor of France wills it*.—The Emperor of France once told Mr. Madison, when Secretary of State, that “he wanted money,” and Mr. Madison replied, “then he must have it.”—He has since told him that the United States shall no longer remain neutral; they must take part with him or against him.—Who can doubt what was the answer?—An armed maritime confederacy is forming between the Northern powers of Europe, and the Emperor, for the ostensible purpose of securing the *freedom of the seas*; Mr. Jefferson, not long ago, at a public dinner, at Richmond, toasted success to the project; and an apostate partizan has been sent to Russia to represent the United States, at the formation of the accursed league.—That such a

league is forming, if not already formed, we have abundant reason to fear ; ingenuity itself, has yet been able to suggest no other motive, than the one just intimated, for this very extraordinary mission, to a power, with which we have never had, nor, in the ordinary course of things, ever shall have, a commercial intercourse to any nameable amount ; members in both houses of Congress, and supporters of the President, have already declared openly, in their places, their approbation of such a coalition ;—Mr. Burwell, in the lower house, and Mr. German, in the upper, have brought forward formal motions, looking directly towards this object ;—and, of late, the prints on the part of the administration, have boldly and in terms, recommended an alliance with France.—Now, therefore, is the time for You, the People, to interpose and arrest your rulers in this mad career : a career which is to terminate in the horrors of a war, on the side of him, whose friendship is destruction ; whose alliance is death.—

“ The oppressive, sturdy, man-destroying villain,
 “ Who cuts up kingdoms, and lays empires waste,
 “ And, in a cruel wantonness of power,
 “ Thins states of half their people, and to want
 “ Gives up the rest.”*

In alliance with this monster, are we to rush into an unjust war against a power which forms the only barrier between him and universal domination :—a power, which is at this moment engaged in nobly struggling in defence of her liberties and her laws :—a power, which, animated by the godlike wish to preserve the civilized world from the chains prepared for it, is gloriously contending, single-handed, against the conqueror and enslaver of Europe !—Yet, against this nation, and on the side of that conqueror, is it, that we are on the point of being made parties to the war.—Let but the Executive, blinded and led on by its long-harboured, illiberal prejudices, on the one hand, and by its fond and fatal partialities on the other—goaded along openly by a Giles, and impelled forward by that baleful planet, which, like another Butc, hangs over this hemisphere, and rules its destinies,—let it but once perceive, that the voice of opposition is hushed—that, if not an unanimous support is to be hoped for from the great body of the people, at least no very formidable opposition is to be encountered,—and, my word for it, the present Congress rises not in peace.

Nothing remains but to take some notice of a charge which more than once, has been made against the author of the ensuing discussion ; and it is all that has yet been heard in place of any attempt to refute by argument, or to disprove by fact—The charge is, that “ *I take the part of a foreign government against my own.*” I am so well pleased with the answer once given to a similar charge by a distinguished writer at Boston, whose language I could not hope to improve, that I avail myself of an extract :—

“Of all the pernicious errors (says he) to which the times in which we have unhappily fallen have given birth, the opinion recently broached, that it is a breach of patriotism to prove our own government wrong in its unjust conduct towards a foreign nation, is the most dangerous. If this absurd opinion, so fatal to freedom and public peace, had been confined to the tools of the men in power, its effects would be unimportant; but some *few less informed but honest men* of opposite opinions have doubted the propriety of putting arguments (as they are pleased to term it) in the mouths of our enemy.

“If this doctrine were adhered to, the ruin of the nation could never be averted. The forms and checks of our constitution, the rights of the press, and of private opinion, would be of no avail.

“If a case could be supposed, of a faction arising in a free state, who at the commencement of a war like that of 1793, should oppose the *neutrality* declared by its government—should enter into a private league with the public agents of one of the belligerents—should encourage illegal acts of hostility against the other—should solicit money from the public Ministers of one belligerent to stir up a rebellion—should in fact excite a civil war—should justify even the hostilities of their favourite nation, and by dint of slander and corruption, should succeed to the supreme power; would it not be a most extraordinary exercise of candour to suppose that such a set of men should suddenly abandon all their prejudices, and behave in a manner perfectly impartial towards both the belligerents? Yet this monstrous and absurd opinion we are called upon to adopt. What I have stated as hypothesis we all know to be *history*. If men cannot throw off their passions and deep rooted partialities like their coats, then we are fully justified in doubting the sincerity of their measures when they pretend resentment against their political supporters and allies, and impartiality towards those whom they have uniformly hated.

“This is the only free country in which such a monstrous doctrine would be listened to for a moment, and the very men who maintain it are loud in their praises of the patriotism of Roscoe, and Baring, and Brougham, and the *Edinburgh Reviewers*, who even in the midst of a *war* boldly arraign the policy and justice of their own government, and defend that of the nations opposed to it. Where can be found a line which denies the right of these authors, or which attempts to silence them by calumny or threats?

“My short reasoning on this topic, independent of the general rights of the press, is this:—

“The first principle of a free government is, that the RULERS are not infallible:—they have passions, and they may err like other men;—they are also as *corruptible*—Hence the doctrine of frequent elections.

“If your rulers *may* err, they may err in their conduct towards *foreign* nations;—they may be too suppliant to one, and too inso-

lent or unjust to another, as either interest, passion, or early prejudices may dictate. To admit, therefore, that they are always right, in their quarrels or contests with foreign powers, is absurd, and the most ruinous doctrine which could be set up by the boldest advocate for unlimited despotism.”—

How powerfully do the above observations apply to the subject before us, when it is considered, that, in this case, all the evidence relating to it, has been sent forth by the Administration itself, confidently challenging investigation, and boldly demanding support!—To that investigation, as necessary to be made before yielding that support, I also invite my readers, in this **APPEAL TO THE PEOPLE.**

WM. COLEMAN:

OFFICE OF THE
SOLICITOR GENERAL

IN SENATE,
January 10, 1890.

REPORT
OF THE
SOLICITOR GENERAL,
JAMES C. HARRIS,
IN RESPONSE TO A
RESOLUTION PASSED
BY THE SENATE,
MAY 1, 1889,
RELATIVE TO THE
LANDS BELONGING
TO THE UNITED STATES
IN THE TERRITORY OF
ARIZONA.

WASHINGTON:
GOVERNMENT PRINTING OFFICE,
1890.

AN APPEAL TO THE PEOPLE.

INTRODUCTORY.

ON the 13th of November last, the *National Intelligencer* announced to the American public, in a manner which then indicated, what has since been verified, that it proceeded from the government itself, that Mr. Jackson, the British minister, had, in his correspondence, made some 'gross insinuations' against the administration, and that "in order to preclude opportunities that had been thus abused, it had only remained to inform Mr. Jackson, as Mr. Smith had done, that no further communications would be received from him." It was added that Mr. Jackson was about to leave Washington. The agitation excited in the minds of all reflecting men by this rupture, is too recent to need description, & curiosity was broad awake, in expectation of the meeting of congress, shortly to take place, for further information respecting this interesting and important affair. Congress met, and the president sent them a message on the 29th, in which he told them that the British minister, "forgetting the respect due to all governments, did not refrain from imputations on this, which required that no further communications should be received from him." Along with the message, the president sent "the correspondence between the secretary of state and this minister," as containing the evidence on which the charge was founded. These documents have all been printed, and are in the hands of every one, yet, were they not so voluminous, they would be annexed in an appendix; but though their bulk renders that impracticable, yet, the first letter of Mr. Smith's, not being very long, and containing "matter of much pith and moment," to which reference will be perpetually made in the course of these numbers, is presented entire. As to the rest, the editor holds himself responsible for the fidelity of the extracts; necessarily referring the reader to some other source for the correspondence at full length.

The Secretary of State to Mr. Jackson, Envoy Extraordinary and Minister Plenipotentiary of his Britannic Majesty, dated Department of State, October 9th, 1809.

SIR.—An arrangement, as to the revocation of the British orders in council, as well as to the satisfaction required in the case of the attack on the Chesapeake frigate, has been made in due form by the government of the United States with David M. Erskine, Esq. an accredited minister plenipotentiary of his Britannic Majesty. And after it had been faithfully carried into execution on the part of this government, and under circumstances rendering its effects on the relative situation of the United States irrevocable, and, in some respects

irreparable. His Britannic Majesty has deemed it proper to disavow it, to recall his minister, and to send another to take his place.

In such a state of things, no expectation could be more reasonable, no course of proceeding more obviously prescribed by respect for the other party, than a prompt and explicit explanation, by the new functionary, of the grounds of the refusal on the part of his government to abide by an arrangement so solemnly made, accompanied by a substitution of other propositions.

Under the influence of this reasonable expectation, the president has learned, with no less surprise than regret, that in your several conferences with me you have stated—

1st. That you have no instructions from your government, which authorise you to make any explanations whatever to this government, as to the reasons which have induced his Britannic majesty to disavow the arrangement lately made by your predecessor, and that therefore you could not make any such explanation.

2d. That in the case of the Chesapeake your instructions only authorise you (without assigning any reason whatever why the reasonable terms of satisfaction tendered and accepted, have not been carried into effect) to communicate to this government a note tendering satisfaction, with an understanding that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this government, and that the signing and delivery of your note and of the answer of this government should be simultaneous.

3d. That you have no instructions, which authorise you to make to this government any propositions whatever in relation to the revocation of the British orders in council; but only to receive such as this government may deem it proper to make to you.

4th. That at all events, it is not the disposition or the intention of the British government to revoke their Orders in Council as they respect the United States, but upon a formal stipulation on the part of the United States, to accede to the following terms and conditions, viz.

1st. That the act of congress, commonly called the non-intercourse law be continued against France, so long as she shall continue her decrees.

2d. That the navy of Great-Britain be authorised to aid in enforcing the provisions of the said act of congress.

3d. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great-Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States.

If, in the foregoing representation, it should appear, that I have in any instance misapprehended your meaning, it will afford me real pleasure to be enabled to lay before the President a statement, corrected agreeably to any suggestions, with which you may be pleased to favour me.

To avoid the misconceptions incident to oral proceedings, I have the honor to intimate that it is thought expedient, that our further discussions, on the present occasion, be in the written form. And with great sincerity I assure you, that whatever communications you may be pleased thus to make, will be received with an anxious solicitude to find them such as may lead to a speedy removal of every existing obstacle to that mutual and lasting friendship and cordiality between the two nations, which it is obviously the interests of both to foster.

(Signed)

With the highest considerations, &c.

R. SMITH.

The Hon. Francis James Jackson, &c. &c.

On this letter no remarks will be made here : Those which a love of truth, an abhorrence of low craft, dissimulation, falsehood and prevarication have suggested, will be found in the course of the ensuing numbers.

A Fraud detected and exposed.

Since the appearance of the documents, a solitary instance has only been found of a federal print siding with the administration, and supporting it, in the most rash and unwarrantable act ever recorded in the annals of diplomacy. The Philadelphia Register of Saturday contains a piece under the signature of *Astrea*,* on the subject of Mr. Jackson's correspondence, so unfair, disingenuous and deceptive, that I feel it to be my duty to turn aside from the contemplated methodical discussion of the documents, for the purpose of detecting and exposing its scandalous artifices. I willingly hope its insertion was without the knowledge, as I am sure it was without the participation of the editor of that paper.

The writer of *Astrea*, after a plausible introduction, recommending "calmness and candor," undertakes to make out and offer the public what he calls

"A *collation* from the correspondence upon two particular points; to wit: 1st. The numerical statement of Mr. Jackson's representations to the secretary of state, contained in Mr. Smith's letter of October 9th. And 2d. The cause for which Mr. Jackson was discarded."

In making this *collation* the writer is guilty of the unfairness, the meanness, the baseness, of either declining to give from Mr. Jackson's letters, the real extracts intended by Mr. Jackson as answers, and actually answering to the extracts previously given from Mr. Smith's letters, or of giving them mutilated and garbled, or lastly, of giving quotations of other matter and upon a totally distinct point, and then deducing inferences against Mr. Jackson directly in the face of truth. This is a heavy charge; but I shall prove it upon him in the most conclusive manner. The honor of my country is concerned in the exposure of such foul conduct.

In order that the public may have the whole before them at one view, I present first, extracts from the Register, entire.

"FIRST POINT.

"*Mr. Smith to Mr. Jackson, October 9, 1809.*

"The President has learned, with no less surprise than regret, that in your several conferences with me you have stated—

"1st. That you have no instructions from your government, which authorise you to make any explanations whatever to this government as to the reasons which had induced his Majesty to disavow the arrangement lately made by your predecessor, and that, therefore, you could not make any such explanations."

"*Mr. Jackson to Mr. Smith, October 11, 1809.*

"As to the expectation entertained here, that the explanation of his Majes-

* It may require apology that I should allow so much importance to an unknown writer, as to begin my subject with criticisms on his productions; but the truth is, that with those criticisms are interwoven remarks upon many interesting topics, which could not be thrown into another shape without more leisure than I possess amidst the daily composition of these numbers, not brought to a close now, when this pamphlet is begun.

ty's share in this transaction should be made through me, I might content myself with simply observing, that I was not provided with instructions to that effect."

And here the "calm and candid" Mr Astrea stops, but if the reader will turn to Mr. Jackson's letter itself, he will find Mr. Jackson continuing his answer in the following words :

"But, it accords with the sentiments of his majesty towards this country to observe *also*, that he considered, that as some time must necessarily elapse between my appointment and my entrance on the duties of my ministry, it would be a more friendly mode of proceeding to state without delay, and through the channels I have already mentioned, the motives that compelled his majesty to disavow the agreement, than to leave the American government in uncertainty in these respects, till the unavoidably protracted period of my arrival in America. I say this in regard to the original notification of his majesty's determination and of the motives of it, which being already made, it could not be supposed in London that a *repetition* of them would be expected from me, *and of course no such case has been foreseen in my instructions*. But if beyond this any incidental explanation or discussion should be wished for by this government, I CAME FULLY PREPARED TO ENTER INTO THEM. *I even consider them to have taken place between us*. I have certainly derived great satisfaction from the several hours which we have spent in conference upon these subjects, because they have enabled me *to remove some misunderstandings, and to refute many misrepresentations*, which you yourself informed me of in regard to the conduct of the British government.

Again :

"*Mr. Smith to Mr. Jackson, October 9, 1809.*

"2d. That in the case of the Chesapeake, your instructions only authorise you (without assigning any reason whatever why the reasonable terms of satisfaction tendered and accepted, have not been carried into effect) to communicate to this government a note, tendering satisfaction, with an understanding that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this government, and that the signing and the delivery of your note, and of the answer of this government, should be simultaneous."

The writer has had the audacity to quote the following as being Mr. Jackson's entire answer.

"*Mr. Jackson to Mr. Smith, October 11, 1809.*

"My proposal was, to agree with you beforehand upon the terms of a declaration on the part of his Majesty, which should actually give the satisfaction (the conditions of which, I informed you, I was authorised to carry into immediate execution) and of a counter-declaration to be signed by you on the part of the United States, for the purpose of accepting such satisfaction—the papers to be signed by us respectively, reciprocally corrected and modified, and simultaneously delivered."

Now take his real answer :

"*I will, nevertheless, avail myself of that mode which he still permits, to repeat to you that his Majesty has authorised me, notwithstanding the ungracious manner in which his former offer of satisfaction for the affair of the Chesapeake was received, to renew that which Mr. Erskine was instructed to make. You have said that you so fully understood the particulars of that offer, that I deem it unnecessary to recapitulate them here ; I regret that since they were so clearly understood by you, you should not yet have been enabled to state to me either in our personal communications, or in the letter which I am now answering, whether they are considered by the president as satisfactory, or whether they are such as he ultimately means to accept. You seem not so distinctly to have understood the form of proceeding in this affair, which I took the liberty of suggesting, as likely to lead to a satisfactory result, without, however, at all precluding any other method which might appear preferable to you. My proposal was not to communicate a note tendering satisfaction, but to agree with you, before hand, upon the terms of a declaration on the part of his Majesty, which would actually give the satisfaction, (the*

conditions of which I informed you that I was authorised to carry into immediate execution) and of a counter declaration to be signed by you on the part of the United States, for the purpose of accepting such satisfaction. *I expressly stated that this interchange of official documents was not meant by me as the means of conveying to each other our respective sentiments ; that I understood to be, as is usual, the object of our conferences ; and I imagined that the papers to be signed by us, respectively, would be the results of those sentiments so communicated, and that by being reciprocally corrected and modified, and simultaneously delivered, they would form one compact by which the two countries would be equally bound, This course of proceeding is conformable to the practice of the courts of Europe on similar occasions. You did not at the time appear to object to it ; you even requested me to appear the next day, prepared with a draft or project of a paper, framed in pursuance to these ideas, and although you desired to refer the subject to the president for his approbation, I do not find in your letter, either an expression of his sentiments upon it, or the substitution of any other form that might be more agreeable to him, than the one which I have proposed."*

Of this, all in italics is entirely omitted. It is unnecessary, I am persuaded, to point out to the reader, how very material is all that part of the above extract which has been thus unfairly suppressed by the writer in the Register. Nor had Mr. Smith himself been above mistating Mr. Jackson's proposal so as to give it a colouring to excite the public prejudice against him. Mr. Jackson's answer, taken all together, discovers that in the adjustment of the affair, all that part of it which related to *form*, was "conformable to the practice of the courts of Europe on similar occasions ;" consequently, that nothing in the least offensive to the American government could have been designed. But, neither does Mr. Jackson stop here ; in the most courteous manner, he adds, that he had suggested that "form of proceeding in this affair, which he took the liberty of suggesting as likely to lead to a satisfactory result, *without*, however, precluding *any* other method *which might appear preferable to Mr. Smith.*" All which is most carefully suppressed by the candid correspondent of the Register, and instead of it, a parti-coloured patch-work is presented, of words and half sentences picked up and put together from different parts of this long paragraph, for the dishonest purpose of perverting the writer's meaning and supporting the side of the ministry, at the expense of both truth and honor.

No. 2.

Further frauds detected.

I proceed to expose still further the unfair practices of the writer who has entered the lists on the part of the Administration, in the Register. He makes the following quotation :

" *Mr. Smith to Mr. Jackson, Oct. 9, 1809.*

" 3d. That you have no instructions which authorise you to make to this government any propositions whatever in relation to the revocation of the British Orders in Council ; but only to receive such as this government may deem it proper to make to you "

To which he opposes the following, as being Mr. Jackson's only and entire answer.

"*Mr. Jackson to Mr. Smith, Oct. 11, 1809.*

"It has appeared to his majesty to be unnecessary to command me to propose to the government of the United States any formal agreement to be substituted for that which his majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorised to make to me on this head."

In order to expose the disgraceful trick to which the Register writer has decended, it is necessary to make three quotations of some length from that letter of Mr. Jackson's from which the above extract is pretended to be taken, but which contains not even one single complete sentence of it.

Mr. Jackson, in answer to Mr. Smith's assertion, that he (Mr. J.) had acknowledged that he had no instructions which authorised him to make any propositions, whatever, in relation to the revocation of the orders in council, begins thus :

"On the subject of his Majesty's orders in council, I have had the honour of informing you that his Majesty having caused to be made to the government of the United States certain proposals founded upon principles, some of which were understood to originate in American authority, and others to be acquiesced in by them, and having afterwards ascertained, in the manner mentioned in the former part of this letter, that the sentiments of the American government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been so recently declined; especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing."

Here two reasons are assigned for not having been instructed to renew the proposals respecting the orders in council. One, that his majesty (having discovered that the American government, although, as had been understood in London, they had originated some of the proposals [to wit, the two first in Mr. Canning's despatch] and acquiesced in the other, [to wit, the third, as declared by Mr. Pinckney,] yet would not now listen to either,) had not instructed Mr. Jackson to renew them: the other, that a state of things had since arisen which really rendered any arrangement respecting the Orders of little importance. All which the "calm & candid" *Astrea* has chosen to keep out of sight. Mr. Jackson then proceeds, in a very perspicuous and able manner, to discuss the several orders in council: in the course of which, he shows, first, that by the orders of April last, the former orders had been disarmed of a feature, which though originally designed by the British government as a mitigation, was always represented in this country as the most obnoxious and odious; to wit, the payment of a transit duty; which the last orders had abandoned.—Who has forgotten the clamors raised on this subject throughout the United States? Who has forgotten the changes rung through all the democratic presses on the word *tribute*? Who has forgotten how Sam. Smith bellowed it forth at Gallows Hill? Nor was the wily Madison, himself, above endeavouring to excite the prejudices of the nation, by inserting a flourish about tribute and independence in

an official despatch. This odious feature, Mr. Jackson now informs Mr. Smith, is removed by the orders of April.

Mr. Jackson then goes on to show, that owing to the various changes which have lately taken place in Europe; such as the opening of the ports of Spain, Portugal, the South of Italy and Turkey, and the West-Indies; by the taking of Martinique, and the actual blockade of Gaudaloupe, together with almost all the enemies colonies, there is, in reality, left but "little of practical hardship in recurring to the rule, which, (he says) however, occasionally mitigated in application, Great Britain can never cease in principle to maintain."—He then adds:

"It is farther to be observed, that the Order in Council of the 25th April has this operation *highly favorable to neutrals*, that restricting the regulations of blockade to France, Holland, and their colonies, and to the territories denominated the kingdom of Italy, it lays open to the direct trade of neutrals the ports of the north of Europe. Under the Order of the 26th April, therefore, while there are on the one hand fewer points of difference to stand in the way of a satisfactory arrangement between Great Britain and the United States, it is possible that there may be less temptation to the *latter*, to enter into such an arrangement, as *the extent of their commerce may be, if they please, nearly as great under the Order in Council of the 26th April*, as it would be under any arrangement which should effect the indispensable objects, to which that order applies, or as it would be even without any such order so long as France and the powers subservient to France continue to enforce their decrees. It is in the same proportion, matter of indifference to Great-Britain, whether the Order in Council be continued or an arrangement by mutual consent substituted in its room."

After making these very conciliatory and proper explanations Mr. Jackson says:

"Such, sir, are the grounds, on which it has appeared to His Majesty to be unnecessary to command me to propose to the government of the United States any formal agreement to be substituted for that which His Majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you, any proposal which you may be authorised to make to me on this head."

Every syllable of all which, down to the words italicised in this last sentence, has been suppressed by the Register's correspondent: and to serve a turn, he has not scrupled even to reject the first member of a sentence, and to strike into the middle: making it begin with an impersonal. Part of the above paragraph is, indeed, afterwards quoted; but it is then forced in, as an answer to another extract from Mr. Smith's letter, to which it is not intended by Mr. Jackson to be the answer; while the real answer and, what is intended as such, is altogether suppressed. But this I must reserve for another number. I trust there is not a man of honor in our country who will be disposed to countenance such vile conduct?

No. 3.

Further Frauds exposed.

This number will not be wholly devoted to the Register's correspondent, *Astrea*; a more important personage will share with

him in our attentions. After reading over, a third time, the voluminous correspondence between Messrs. Smith and Jackson, I am persuaded, that scarcely one man in ten, even now, and among those, too, of more than ordinary capacity, fully understands it. That the people at large should not understand it, was, I have no doubt, one motive to prolixity with those whose interest it was to puzzle and confound. But I venture to say that when it is fully and fairly understood, not a man of any pretensions to candour, will be found, of any party, who will not feel himself compelled to confess, that hitherto the blame has been made to rest upon the innocent; and that it ought to be shifted to other shoulders. If I do not make this out beyond the reach of contradiction, or cavil, I hereby agree never again to claim the confidence of the public. I petition the world to mark me down, and to point me out for a staring ideot, if I do not prove, to the entire conviction of every impartial mind, that throughout this whole business, Mr. Jackson has, in no one instance, been blame-worthy; but that the whole blame lies exclusively with the other party. Nor is this said hastily and without due deliberation: it is said after the most thorough and painful examination of all the documents that have appeared, and after long, persevering and anxious reflections upon them. *

Let us now return to *Astrea* and proceed still further to probe the fraud he has attempted on the public. In the investigation of this topic, we shall approach those general conclusions, which I have taught my readers to expect, after the attentive examination of the whole subject. He next, gives the following extract:

“*Mr. Smith to Mr. Jackson, October 9, 1809.*”

“4th. That at all events, it is not the *disposition or intention of the British government* to revoke their orders in council, as they respect the United States, but *upon a formal stipulation* on the part of the United States, to accede to the following terms and conditions, viz.

“1st. That the act of congress commonly called the non-intercourse law, be continued against France, so long as she shall continue her decrees.

“2d. That the navy of Great-Britain be authorised to aid in enforcing the provisions of the said act of Congress.

“3d. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States.”

The above is given as what Mr. Jackson had proposed to Mr. Smith in conversation, and insisted upon, and which, Mr. Smith says, had caused our good president “no less surprise than regret.” The following is opposed to it by *Astrea*, as being Mr. Jackson’s answer:

* *When this was originally written, (December 12th,) it was by some considered as venturing out with too great confidence: but I have seen nothing since to lessen that confidence; on the contrary, I now (January 20th) meet with no one who does not agree with me in the opinion here expressed.*

"*Mr. Jackson to Mr. Smith, October 11, 1809.*

"It is a matter of indifference to Great Britain, whether the order in council be continued, or an arrangement by mutual consent substituted in its room.

"The commerce of the United States may be, if they please, nearly as great under the order in council of the 26th April, as it would be under an arrangement which should effect the indispensable objects to which that order applies, or as it would be even without any such order, so long as France, and the powers subservient to France, continue to enforce their decrees."

"*Mr. Jackson to Mr. Smith, November 4, 1809.*

"That before the orders in council can be revoked, their object must be obtained in some other way, is unquestionably true."

Here the reader, doubtless, experiences some surprise, to perceive that this is but a sorry answer to the matter, which it is produced to confront. In truth, it is no answer at all. It is only a garbled extract from a passage in Mr. Jackson's letter, relating solely to the orders in council, and which I gave at full length yesterday as relating to that point; but whether Mr. Smith was or was not admitted by Mr. Jackson to be correct in his representation, that Mr. Jackson had stated to him that *Great Britain would not revoke her Orders in Council, but on a formal stipulation on the part of the United States, to accede to certain terms and conditions*, this quotation from Mr. Jackson's letter is not at all to the purpose. It contains neither admission nor denial; it was not even the question before Mr. Jackson when he was writing it. His real answer I shall give presently. It will be seen that it was a pertinent answer: a pointed and explicit answer. In the mean time, let us behold Astrea's triumph.

"Thus, by piece-meal, (says he) with long digressions, multiplication of words, and drawing reluctance, *Mr. Jackson admits the whole of Mr. Smith's statement to be substantially true.*"

This is such a barefaced misrepresentation, as must excite the contempt of every honest man who reads it. I shall now simply present the reader with Mr. Jackson's real, *bona fide* answer to the representation of Mr. Smith, imputing to him that he had demanded of our government a formal stipulation to accede to the same terms and conditions, contained in Mr. Canning's despatch, and once rejected. In answer to this imputation Mr. Jackson says:

"As no disposition has hitherto been shewn on your part to make any such proposals [proposals for substituting something else for the three conditions in Mr. Canning's despatch] it has been impossible for me to state by anticipation (nor was I instructed so to do) what might be the answer I should eventually think it my duty to return to you; consequently, I could not have made with that view the statement contained in the 4th section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture, which you very correctly record in the 3d section, viz. that *I was not instructed to make to you any proposal whatever upon this subject.*"

The words "*with that view*" have been made the subject of cavil in the National Intelligencer, but without foundation. The obvious meaning is, that Mr. Jackson could have made no overture with a view to state by anticipation an answer to Mr Smith's proposals. But all possible satisfaction is afterwards obtained; every shadow of ambiguity removed, by the closing member of the sentence, quoted, too, from Mr. Smith himself: "I was not (he says) instructed to make to you *any proposals whatever* on this subject." And yet the "calm and candid" correspondent of the Philadelphia Register, assures the public that "Mr. Jackson admits the whole of Mr. Smith's statement to be substantially true."

This, however, explicit as it is, does not contain the only denial given by Mr. Jackson to Mr. Smith's statement. In Mr. Jackson's letter of October 23d, he finds it necessary to take a second notice of this imputation, and in his letter of Nov. 4th, a third notice, every time denying it in positive terms. Here I shall take leave of Astrea, and introduce to the reader's notice, in his stead, the Secretary of State, Mr. Robert Smith. Pray step forward, thou worthy minister;—we have much to say to you. Nay, never flinch, sir, for, before the tribunal of an impartial public you must come, and you must answer, too, for the part you have been acting.

No. 4.

A great Man introduced.

Astrea must stand aside to make way for his superiors. The Secretary of State, no less a personage than Mr. Robert Smith, is now to claim a pretty large share of our attention, and I have long been impatient to introduce him. His examination promises to afford us no little instruction. It is time that the public should begin to see things in their true light. Impudence and imposture have had their career: now, let the *small still voice* of truth and candour be heard. And I entertain not the shadow of a doubt, that when facts shall be placed in a just view; when hypocrisy shall be laid naked; shuffling and deceit exposed; inconsistencies and contradictions confronted; daring falsehoods put to flight, and the tortuous train of dishonesty unfolded in all its deformity, the people of this country will be found possessed both of discernment and independence enough to pronounce, by a vast majority, a righteous judgment on the late transactions at Washington. Emboldened by this belief, I advance with alacrity to the honourable task I have assigned myself.

It appears from the first letter in the correspondence before us, that the Administration, (not finding any pretence for refusing to

receive the British Ambassador,) admitted him to one of the rights and privileges belonging to every public minister, just long enough to enable them to play the high game which they determined to play; and which they have played. They permitted him to enjoy free and unreserved verbal communications with the Secretary of State, until the expiration of six days, during which time two oral conferences were held. They then thought they had obtained enough for their purpose, and hastened to give him a formal notice, that they should hold no further conversations with him. They supposed they had now secured his measure and could fit him exactly. It has not yet escaped recollection, that a similar game was played off upon Mr. Rose: they first discovered the extent and limitation of his powers, and then framed their negotiations accordingly; they suited themselves to the case; always taking care to make just such proposals as they had previously been informed, by the envoy, it was out of his power to accept. The result was what they calculated it would be; the negotiation was frustrated, their object was accomplished, and the blame thrown upon the other party. We shall now see that their sole aim in admitting Mr. Jackson to a personal interview was to obtain an opportunity of making similar discoveries and playing off upon him a similar game; though it will also be seen that in the end they have found themselves the victims of their own stratagems. If Mr. Jackson had been ever so much disposed to be frank and credulous, the fate of Mr. Rose was a warning to him; and while, therefore, he was free to converse and to explain, he was very justifiably prudent to reserve, and very properly, cautious to conceal. He neither made known to them, in the first instance, either the nature or limitation of his instructions, nor did he commit himself by "any proposal whatever." He contented himself with expressing the sincere desire of the king to "terminate amicably the existing differences between the two countries," and with informing the government, that if he should find that such an amicable termination might probably be made, he was, in such event, armed with a "full power" to agree upon, and even "conclude a treaty." He carefully abstained from stating in this early stage, any expected terms and conditions, much less did he intimate that stipulations were to be obtained from the United States, as preliminaries. But it will be seen, that all his prudence, all his caution, all his vigilance, availed him not; for what can prudence, caution or vigilance avail, against studied, perverse and persevering bold misrepresentations?

Having debarred him the exercise of one of the "most essential rights of a public minister," by cutting off all further opportunities of verbal conference, "so beneficial to a right understanding of the views of the two countries," had such understanding been their sincere desire, they commence their operations by a

formal letter: "a sort of correspondence, (as Mr. Jackson justly observes, and as they were fully aware without such observation,) not calculated to remove differences and soothe irritations of the most unfortunate tendency."—But if this sort of correspondence was objectionable in itself, what must we think of those who had recourse to it, when we find them beginning it in a haughty, dictatorial style, questioning, by implication, the King's good faith, and following this up by material misrepresentations of important facts; which misrepresentations, we are compelled to believe, were studied and wilful, from finding them obstinately persevered in, not only up to the close of the correspondence, but after it was closed, in their printed justification, sent out to the people in the shape of a despatch to Mr. Pinckney, in London? What must we think I ask? What shall we say? That such however is *the truth, and nothing but the truth*, is now to be shown. Alas!—Why must I blush for my country, as my pen performs its office?

Mr. Smith begins his letter, of the 9th of October, by informing Mr. Jackson, with stateliness, that his Majesty, having refused to ratify Mr. Erskine's arrangement, a prompt and explicit explanation was expected from Mr. Jackson of the grounds of the refusal, accompanied by a substitution of other propositions. "Under the influence, he adds, of this reasonable expectation, the President has learned with no less surprise and regret, that in your several conferences with me, you have stated,"

"4th. That, at all events, it is not the *disposition* or the *intention* of the British government to revoke their *Orders in Council* as they respect the United States, but upon a *formal stipulation*, on the part of the United States, to accede to the following terms and conditions, viz.

1st. That the act of Congress, commonly called the non-intercourse law, be continued against France, so long as she shall continue her decrees.

2d. That *the navy of Great Britain be authorised to aid in enforcing the said act of Congress.*

3d. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States."

Here was such a material misrepresentation of a very important fact, that Mr. Jackson lost not a moment in endeavouring to correct it. Accordingly, in his letter of the 11th of October, he makes the following explicit denial.

"On the subject of His Majesty's Orders in Council, I have had the honour of informing you that his Majesty, having caused to be made to the government of the United States certain proposals founded upon principles, some of which were understood to originate in American authorities, and others to be acquiesced in by them—and having afterwards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American government were so different from what they were at first understood to be, *I was*

not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been recently declined ; especially, as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing."

In the same letter, and more particularly he says:

"As no disposition has hitherto been shown on your part to make such proposal, [a proposal respecting the removal of the orders in council] it has been impossible for me to state by anticipation (nor was I instructed so to do) what might be the answer that I should eventually think it my duty to return to you ; consequently, I could not have made with that view the statement contained in the fourth section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture which you very correctly record in the third section, viz. that I was not instructed to make to you any proposal whatever upon this subject."

Here were two such denials as one might have supposed, would have put this misrepresentation at rest forever. But Mr. Robert Smith was not to be foiled so. Mr. Jackson had indeed, given no foothold ; he had eluded the snare laid for him ; the Secretary had in reality got nothing out of him, as he himself incautiously confessed in only the preceding paragraph of his letter of the 9th October ; but if he had got nothing from Mr. Jackson he was determined to make something for him ; accordingly he began by imputing to him what he had never uttered ; and he began, as will be seen, with a fixed determination to adhere to it forever, at all hazards. The British navy was too precious a weapon to be slighted, or to be ever laid aside when once taken up. He had, to be sure, invited Mr. Jackson to correct him if in any thing he had misapprehended him, but he gave the invitation with the same sincerity that dictated the rest of his letter.

"If, in the foregoing representation (says he) it should appear, that I have in any instance misapprehended your meaning, it will afford me real pleasure to be enabled to lay before the President a statement, corrected agreeably to any suggestions, with which you may be pleased to favour me."

The sincerity of this shall be brought to the test.

No. 5.

The sincerity, candour and fair dealing of a minister put to the test.

We have seen Mr. Smith impute to Mr. Jackson that he had made certain proposals to him in conversation, viz. that the United States must enter into a formal stipulation—1. That they will continue the non-intercourse law against France. 2. That they will authorise the navy of Great Britain to aid in enforcing the said law, and 3. That they will renounce, during the present war, the carrying trade, direct or indirect : upon obtaining which stipulations, and on that condition only, would the British government withdraw the Orders in Council. Mr. Smith well knew how objectionable, I will add, how justly objectionable,

such terms would be to the people of this country : He well knew that no man of respectability was to be found, of any party, who would be disposed for a moment to listen to them : (with the exception, if Mr. Erskine is to be believed, of *Madison*, *Gallatin*, and *Smith*.) He therefore imputed them to the British ambassador, and he imputed them with a fixed determination, never, in any event, to be convinced that he was mistaken in his imputation, and never, in any event, to give them up ; as we shall bye and bye be convinced.

We have seen Mr. Smith, in his first letter, declaring that it would afford him real pleasure to lay before the President, a statement corrected agreeably to any suggestion Mr. Jackson might be pleased to favour him with : We have seen Mr. Jackson's prompt and explicit answer to Mr. Smith on this subject, declaring that he had made no such proposals, and that it was even impossible he could have made any such, because it would have been inconsistent with his instructions, which were not to make any proposal whatever, on the subject of the Orders in Council. Did Mr. Smith lay before the president this statement so corrected? Did he receive it himself and correct his own statement by it ? Let him speak for himself.

“On the subject of the Orders in Council, the President perceives with sentiments of deep regret, that *your instructions contemplate neither an explanation of the refusal of your government to fulfil the arrangement of that branch of the existing differences, nor the substitution of any other plan of adjustment, nor any authority to conclude any agreement on that subject ; but merely to receive and discuss proposals that might be made to you on the part of the United States ; and these, it appears, must include a stipulation on the part of the United States to relinquish the trade with the enemy's colonies even in branches not hitherto interrupted by British Orders for capture, and also a sanction to the enforcing of an act of Congress by the BRITISH NAVY.*”

Thus, instead of correcting himself by the answer he had received, we find him re-stating the imputation in the strongest and most explicit terms. In his first letter, he had assigned as the reason, why further discussions were to be conducted in the written form, that it would “avoid the misconceptions incident to oral proceedings.” Had he possessed the least share of candour, would he not, on receiving Mr. Jackson's answer, as above, have supposed that he had misconceived him on this point, in their “oral proceedings” and hastened to correct himself accordingly? Had he possessed any share of sincerity, would he not, at least, have asked Mr. Jackson to explain his answer, had he thought that answer wanting in perspicuity? In short, would he, without taking the least notice of the answer, have persisted in reasserting and restating the very imputations which he had made in his first letter, after those imputations had been disavowed by Mr. Jackson, in so precise a manner?

But neither does Mr. Smith stop here. He was not contented with stating, once, and in such general terms, the offensive stipu-

lations which he declares Mr. Jackson had exacted, as preliminaries, but he proceeds to repeat them, and to put them in every shape that he imagined best calculated to make the strongest impression on the minds of the public: for it is very evident that this whole correspondence was conducted on his part, with the view of being exhibited afterwards to the people of the United States. He continues the subject thus.

“Were the way properly opened for formal propositions from this government, a *known determination on the part of his Britannic Majesty to adhere to such extraordinary pretensions* would preclude the hope of success in such advances; whether regard be had to the conditions themselves, or to the disposition they indicate, in return for the conciliatory temper which has been evinced by the United States.”

Here is a bravery of assurance, a hardihood of misrepresentation, that cannot fail to excite the undissembled amazement of every man who reads and recollects. “*A known determination on the part of his Britannic Majesty to adhere to such extraordinary pretensions*”!!! However extraordinary were the pretensions alluded to, viz. the three conditions mentioned in Mr. Canning’s despatch to Mr. Erskine, it must be recollected that two of them originated with our own government. But the observation more particularly to be made here, is, that whatever were those pretensions, whether offensive or otherwise, or with whomsoever they may have originated, or by whatever means they may have been inserted in Mr. Canning’s despatch to Mr. Erskine of last January, they had been abandoned: they were no longer conditions to be obtained before the Orders in Council could be removed: They were, if you please, conditions which Great Britain would still have been glad to obtain, had there been any prospect that she could have obtained them; but she was convinced before she sent Mr. Jackson here that she could not obtain them; she therefore did not send him with any expectation of obtaining them, nor was he instructed to attempt to obtain them. On this point it is impossible for language to be more precise and explicit than that used by Mr. Jackson himself. In his first letter of the 11th of October he says.

“On the subject of his Majesty’s Orders in Council, I have had the honour of informing you, that his Majesty, having caused to be made to the government of the United States, certain proposals founded upon principals *some of which were understood to originate in American authorities, and others to be acquiesced in by them*; and having afterwards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American government were so different from what they were at first understood to be, *I was not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been so recently declined*, especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing.”

In reply to which, Mr. Smith, with cool assurance, declares, that were there *nothing else* in the way to amicable adjustment,

“ a *known determination* on the part of his Britannic Majesty, to adhere to such *extraordinary pretensions* would preclude the hope of success.” This is not an *insinuation by implication*, that Mr. Jackson had not correctly stated the truth ; but a positive contradiction, and given in a way, too, at least, the most provoking, if not directly insulting, by repeating his original misrepresentation, and placing in various lights, so as to add to its force and effect, without deigning even to take the least notice of the correction which he himself had expressly invited. Neither is the above all that is said by Mr. Smith in this same letter. He proceeds thus :

“ As to the *demand* in relation to the colonial trade, it has been the less apprehended, as it is not in itself connected, nor has it ever before been brought into connection, either with the case of the Orders in Council, or with that of the Chesapeake. And it was reasonable to presume, if the idea of such a condition had in the *first instance* proceeded from the erroneous belief that it was not objectionable to the United States, that it *would not have been persisted in after that error had been ascertained and acknowledged.*”

Here he is still more explicit in his contradiction than in the last extract. He here adverts to the proposal specified, and on the supposition, that, in the first instance, it had proceeded from mistaking the sentiments of the American government, & expresses his surprise that it should be persisted in, after this mistake had been removed. This he says directly in the face of the Ambassador, who had just been assuring him that his Majesty, having ascertained that the sentiments of the American government were different from those formerly represented, had not instructed him to renew those proposals so recently declined.

Mr. Smith then once more takes up his darling theme, the execution of our laws by the British navy.

“ The *other demand* (he says) could still less have been apprehended. Besides the inevitable and incalculable abuses incident to such a licence to foreign cruisers, the *stipulation would touch one of those vital principles of sovereignty* which no nation ought to have been expected to impair.”

The same animadversions apply to this repeated imputation of language which Mr. Jackson never held, as made above : What more unbecoming, rude and offensive can be imagined ? But I cannot pass over this opportunity to confront this flaming, this high-minded patriot with himself, when treating of the same topic upon another occasion. The reader recollects that the documents opened with several letters between the different members of the Administration and Mr. Erskine, and it is a fact that has been publicly stated at Baltimore, and never denied at Washington, that Mr. Erskine's letters were revised and corrected by Mr. Smith himself : no objection to their contents, therefore, lies in his mouth. Speaking of what had passed between Smith and Erskine, on this subject of the British navy being authorised to enforce our laws, Mr. Erskine reminds Mr. Smith that he had expressed himself thus :

"The third condition you certainly very distinctly informed me could not be recognised by the *President*, but you added, what had great weight in my mind, that *you did not see why any great importance should be attached to such a recognition*; because it would be impossible that a citizen of the United States could prefer a complaint to his government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country."

I reserve for another occasion those remarks which such sentiments suggest: I only adduce it here for the purpose of showing, how patriotism, at Washington, can sometimes glow, and sometimes run chill through the same veins.

The last quotation I shall now give, will be for the purpose of exposing an instance of the most extraordinary hypocrisy and duplicity, that ever disgraced the correspondence of a public minister.

"*Had none of those obstacles* (says Mr. Smith) *presented themselves to the course corresponding with the sentiments and dispositions of the president, I should have felt great pleasure in giving you formal assurances of his readiness to execute the conditional authority with which he is invested, for restoring in its full extent, as far as it may depend on the United States, the commercial intercourse of the two countries, and that he would, moreover, be disposed to extend the experiment of a friendly negotiation to every point of difference and of mutual interest between them.*"

I only add—it has just been shown from Mr. Jackson's answers; it has been proved, fully proved, that "none of those obstacles," not one of them, not a single one did present itself; and then, I ask, what becomes of the professions of Mr. Smith? What are we to think, what will the people of the United States think, what will England and all Europe think of such horrible hypocrisy? However resolved on setting no bounds to his ill treatment of Mr. Jackson, might he not have spared thus to tantalize the public feelings? His conduct is only to be accounted for on the solution given by an energetic writer when exposing a similar instance of duplicity. "An habitual hypocrisy, (he remarks) frequently betrays itself, by exercising its powers, when they are totally unnecessary; by a wanton display of its deceptions, and by an impertinent affectation of scrupulosity."

No. 6.

Same Subject continued.

The reader is supposed to bear in mind what has been already laid before him, and been repeated; but I must beg leave briefly to repeat the substance of it again. We have seen that Mr. Smith begun his correspondence by imputing to Mr. Jackson, that he had, in their verbal conferences, advanced certain inadmissible proposals, to wit, That Great-Britain continued to demand that the United States should enter into a formal stipulation, to grant the three conditions forming the substance of Mr. Canning's despatch, of January 23d, as the only terms on which

she would revoke her Orders in Council. We have seen Mr. Jackson's answer to this imputation, in which he endeavours to set Mr. Smith right as to the fact, by informing him, that on the subject of the Orders in Council, he was *not* instructed to renew *those* proposals, which had been so recently declined; and again, in the close of the same letter, that he *could not* have made *those proposals* attributed to him, because he was not instructed to make *any proposal whatever* relative to the Orders. To this we have seen Mr. Smith's answer, in which, without taking the least notice of Mr. Jackson's correction as to the above fact, he proceeds to restate the very same thing he had stated at first, and to amplify it, and dwell upon it, and attempt to place it in the most objectionable and odious lights; winding up this perverseness and rudeness, by hypocritically and insultingly lamenting how much pain it gave him, to find such obstacles thrown in the way of an amicable adjustment of the differences between the two countries. This brings us to Mr. Jackson's second reply to Mr. Smith on this same point; in his letter of October 23d.

And here let me ask the reader what sort of language he is prepared to expect from the British ambassador? Will he be disappointed if it should be a little tart, or even acrimonious? I think he would not be disappointed, nor could he find fault with it. Let us then see in what manner Mr. Jackson really answers; that Mr. Jackson, to whom such a wide departure from courtesy, and even decorum, has been imputed by Mr. Secretary Smith.

Having taken a proper notice of the other parts of Mr. Smith's letter, when he comes to this point, Mr. Jackson, contrary to all anticipation, contents himself with simply recapitulating the substance of what, (he says) he had had the honour to convey to Mr. Smith already, as well in verbal, as in written communications.

"I have informed you, (says he) of the reasons of his majesty's disavowal of the agreement so often mentioned; I have shown them in obedience to the authority which you have quoted, to be both "strong and solid," and such as to outweigh, in the judgment of his Majesty's government, every other consideration which you have contemplated; I have shown that that agreement was not concluded in virtue of a full power, and that the instructions given on this occasion, were violated.

"Beyond this point of explanation, which was supposed to have been attained, but which is now given by the present letter, in the form understood to be *most agreeable to the American government*, my instructions are prospective; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations, on which a real reconciliation of *all* differences may be substantially founded; and they authorise me, *NOT TO RENEW proposals which have already been declared here to be unacceptable*, but to receive and discuss any proposal made on the part of the United States, and *eventually to conclude a convention between the two countries.*"

If in this, there is aught to be found but what is dispassionate and dignified, I am at a loss to discover it; and when the provocation given by Mr. Smith, both as to the substance and manner of his contradiction, is considered, I think every man of candour will be compelled to join with me in acknowledging, there is no

small share of forbearance. Turn we now to Mr. Smith's second answer to this second correction. And I beg the reader to note the difference of temper, indicated by the difference of style in the two ministers.

"Although the *delay* and the apparent *reluctance* in specifying the grounds of the disavowal of the government with respect to the Orders in Council, *do not correspond with the course of proceeding deemed most becoming* the occasion, yet, as the explanation has at length been made, it only remains, as to that part of the disavowed arrangement, to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal; *it being understood* at the same time his Britannic Majesty PERSEVERES in requiring as INDISPENSABLE CONDITIONS on the part of the United States, *an entire relinquishment of the right to trade with enemies colonies, and also permission to the British navy to aid in executing a law of Congress; pretensions, which cannot but render abortive all proposals whatever upon this subject*, whether made by the United States or by his Britannic Majesty."

What honest man can peruse this with patience? Who but must experience strong emotions of contempt for a man capable of conduct so mean and so base? But I beg the reader to go back and examine this extraordinary extract once more. It is taken from Mr. Smith's letter of the first of November, and is faithfully copied and presented entire.

Supposing him to have done so, I must then ask him to go further back, and look at Mr. Smith's first misrepresentation, in his letter of the 9th of October; then let him turn to Mr. Jackson's correction of that misrepresentation, in his letter of the 11th; next look at Mr. Smith's letter of the 19th, persevering in his original misrepresentation, taking no notice of Mr. Jackson's correction, but restating and amplifying with studied exaggeration the same misrepresentation; to this will follow, in order, Mr. Jackson's letter of the 23d, a second time mildly repelling what is thus imputed to him; and lastly, comes what I have just quoted from Mr. Smith's letter of the first of November; in which we find him still adhering, with obstinacy, to his first misrepresentation, and still taking not the least notice of either Mr. Jackson's first or second correction. And now let me ask what sensations must every man of honour, every lover of truth and fair dealing, every friend to decorum, what sensations can he feel, but those of amazement and disgust?

This letter of Mr. Smith's was answered by Mr. Jackson on the 4th of the same month; the last letter they ever permitted him to write. And if there are any who think that no such provocation had before been given, as would have justified Mr. Jackson in replying with a degree of tartness, and even harshness, there is no one, I fancy, who will maintain, that here was no such provocation; there is no gentleman, I venture to assert, who will not admit there was a provocation, a repeated provocation, such as must require an uncommon share of self command, in any man, not to resent in terms of indignation and reproach. Mr. Jackson, however, did better. He lost not his temper in the least; he lost

not his self-respect; he forgot not the great object of his mission; he was resolved that no personal affront to himself, if, without dishonour, he might pass it by, should interfere to defeat the interest which "both nations (he observes) have in fostering a mutual and solid friendship and amity;" he, therefore, scrupulously abstains, even now, from every thing in any degree irritating or offensive. He chooses to shut his eyes to the gross contradiction that had thus repeatedly been flung in his face, and he answers in the following calm, plain, but precise and explicit manner:

"It is, furthermore, necessary to place in the most unequivocal light, a topic, which, I observe to be *constantly and prominently restated* in your letters, notwithstanding the repeated, but, as it should seem, fruitless endeavours used in mine, to clear it from the slightest shadow of obscurity.

You say, "that it is understood his Britannic Majesty perseveres in requiring as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemies colonies, and also a permission to the British navy to aid in executing a law of Congress."

"This same statement is contained in your letter of the 9th instant, and represented as the substance of what had fallen from me in our previous conferences. In my answer to that letter, I took the liberty of showing that *such a supposition was erroneous*, and I have looked in vain to my letter of the 23d, to find in it any suggestion of a similar tenor. I believe therefore, that by reference to my two letters, you will find, that *the statement now again brought forward, is contained in neither of them, that it made no part of my previous conversations with you, and that I have in NO WAY given room to suppose, that I EVER made ANY SUCH statement at all.*"

Well; what will be said now? If there was ambiguity or obscurity in Mr. Jackson's first and second answers, (as possibly some friends to the administration may affect to believe, in order to screen Mr. Smith from the indecorum of thus repeatedly contradicting a foreign minister, in so gross a manner,) if, I say, there was ambiguity or obscurity before, it is out of the power of ingenuity itself to point out any here. Mr. Jackson then goes on, once more in detail, thus:

"That before the Orders in Council can be revoked, their object must be obtained in *some other way*, is unquestionably true; but you may be assured, sir, that *there is no wish whatever entertained in England, that the British navy should be employed in executing a law of Congress*. If the proposal that was made upon that subject, and made, as you now know, *because it was believed to be acceptable here*, had been adopted, and had become a *matter of compact* between the two countries, and thereby a part, *not of the law of Congress*, but of the *public law*, [that is, a *treaty*,] binding upon both parties, and which both would have had a common interest in seeing duly executed—in that case *the agency of the British navy* would not have had the invidious aspect, *which is now attempted to be given to it*. At present there is no engagement between the two countries, *no laws of Congress* which bear a reference to any such engagement, and consequently *it cannot be wished to take any share whatever in the execution of those laws*.

In regard to the colonial trade, I need only observe, that as all, or nearly all the enemies colonies are blockaded by British squadrons, it cannot therefore be so much an object of solicitude as you imagine, to obtain the relinquishment of the trade of any country to those colonies. On the contrary, you will find it stated in my letter of the eleventh ultimo, to be a "*matter of indifference* whether the Order in Council (on this subject) be continued, or an arrangement by mutual consent substituted in its room."

In this place, a passing remark on these three topics may not be amiss, though not in relation to the principal point before us.

Mr. Jackson admits, that "before the Orders in Council can be withdrawn their object must be obtained some other way." Against this a great clamour is raised. "You may see," they exclaim, "that nothing is to be expected from Great Britain; she insists on having the object of her Orders in Council, in some way or other; fair or foul." But what is that object? To prevent our intercourse with France, as long as France prevents our intercourse with England. And pray has not our government over and over again offered to renew their intercourse with that power which should first revoke its decrees, as to us, and continue a non-intercourse with the other? Did not Mr. Jefferson, in his message of November, 1808, state to Congress that he had offered Great Britain that "on her rescinding her Orders in relation to the United States, their trade would be opened with her, and remain shut to her enemy, [France] in case of his failure to rescind his decrees also?"—He did.—And although it is not true that such offer was ever in fact made, that no way affects the inference deducible from his statement. Does not the eleventh section of the non-intercourse law, itself, expressly authorise the President to suspend its operation as to that power which should so revoke its decrees; leaving it on, of course, as to that which should not?—It does.—And lastly, did not Mr. Madison unequivocally assure Mr. Erskine, that if Great Britain would relax her restrictions upon neutral commerce, the United States would at once side with her against France if she should continue her aggressions?—He did.—And did not Mr. Smith also assure Mr. Erskine, that there could be no doubt that Congress would assert the rights of the United States against such powers as should *adopt or act under the decrees* of France?—He did.—Thus then, we have promised by our laws, and by both our Executives, to give Great Britain "the object of her Orders in Council in some other way." But has this been done? On the contrary, while the government were waiting, as they pretend, in expectation that Great Britain would revoke her Orders in Council, agreeably to Mr. Erskine's arrangement, they issued a circular from the treasury, declaring Holland, tho' a dependency of France, and which had adopted the decrees of France, not to be within the operation of the non-intercourse law, and in June last, they passed an act, admitting into our ports and harbours, French ships of war, on the same footing with the British?

So much for what Mr. Jackson says as to "obtaining the object of the Orders in Council some other way." And what does he say about that odious topic, the enforcing our embargo *laws* by means of the British navy? He tells Mr. Smith, very explicitly, that this proposal was made, *because*—"because it was believed

to be acceptable to the American government," as Mr. Smith had been informed months before. Into this belief they were first led by the representative of the American government in London, Mr. Pinckney. Mr. Jackson, however, here declares, first, that there exists no wish in England that the British navy should be so employed; and secondly, that if an arrangement to that effect had been found desirable, it was the intention of his government, to make it the subject of a compact, or *treaty*, equally binding on both parties, and consequently obliging one so to employ it, and giving the other a right, to demand its employment. "Both parties, as Mr. Jackson observes, would in such case, have had a common interest in seeing it duly executed; and the agency of the British navy would not have had the invidious aspect now attempted to be given to it." And that such would be the just light in which to consider such stipulation, we have the following authority from Mr. Smith's own letter of Nov. 23d.

"Where there is a reciprocity in compacts between nations touching attributes of sovereignty, [as in case of a treaty] there is always as much of sovereignty gained as parted with, *so that there be no loss nor indignity on either side.*"

Exactly what Mr. Jackson proposed; and exactly in conformity with the remark by him made.

As to the last topic, the relinquishment of the colonial trade, Mr. Jackson reminds Mr. Smith that he will "find it stated in his first letter of the 11th of October, that all or nearly all the enemies colonies being actually blockaded by the British squadrons, the relinquishment of such trade is an object of little solicitude in Great Britain: And in short, that it was a matter of indifference there, whether the object of the Order in Council be continued, or an arrangement by mutual consent substituted in its room." In other words, whether things should remain in their present posture, or whether, in conformity with the eleventh section of the non-intercourse law, commercial intercourse should be renewed with Great Britain, if she on her part should revoke her Order, and continued as to France, if she, on her part, should continue her decrees.

Such is Mr. Jackson's answer respecting the three topics so often insisted on by Mr. Smith. In our next we shall see, and see with astonishment, the answer *once more* given by the latter; still adhering to his misrepresentation; still repeating his contradictions, and that in a manner so unprecedented, so unjust, and so mean, as to excite the strongest emotions in the breast of every man of honour, who becomes acquainted with it.

Same subject continued.

If, in the extract last quoted from Mr. Jackson's letter of Nov. 4th, there is any thing difficult to be understood, let it be pointed out ; or if there is aught offensive. But there is no room to pretend either. It is as perspicuous as language can make it ; as mild as the most moderate could wish. What was the answer ? Answer to him, there was none. There was no answer ever given in any correspondence between Mr. Smith and Mr. Jackson. This letter was followed by Mr. Smith's of the eighth of the same month, informing Mr. Jackson, in brief, that " no further communications would be received from him." Having thus, by interposing the authority of the government, debarred him from all opportunity of defending either himself or his sovereign, Mr. Smith, with a nobleness of spirit which is not easily to be matched, nor can ever be sufficiently admired, wrote a letter to our Minister in London, in which he carefully collected all his misrepresentations and his contradictions together, repeated them once more, urged them over again with an increased assurance, sealed up his despatch, sent it off to London, and then published a copy of it in the newspapers, which, to crown all, he added to the documents sent to Congress, as being part of the correspondence between him and the British Ambassador : a proceeding, which, I hazard nothing in saying, is as entirely without precedent, as it is without parallel, and will ever remain without imitation.

Among the many misrepresentations and indecorms with which this letter to Mr. Pinckney abounds, but all of which, it will not come under my plan to notice, the misrepresentation we have so long been engaged with, occupies a prominent place.

I have said, that when Mr. Smith first broached this misrepresentation to Mr. Jackson, in his letter of the 9th of October, he did so with a determination to adhere to it at every hazard, and persevere in it to every extremity ; and that when he professed his readiness to correct himself, and promised to do it, agreeably to any suggestion Mr. Jackson might make, he did so without the least intention of ever performing that promise. I think, by this time, the reader is brought, very nearly, to the same opinion. He has heard Mr. Jackson twice, distinctly and courteously, attempt to set Mr. Smith right, and he has seen Mr. Smith, just as often, deaf to all that could be said, persisting in restating the same thing. In the preceding extract from Mr. Jackson, in the last letter the government would ever permit him to write, we have seen him take uncommon pains, and employ language the most precise and explicit, to put the matter entirely beyond all possible misapprehension.

We now come to Mr. Smith's letter to Mr. Pinckney, just alluded to, and in it we shall see further evidence, satisfactory evidence of the insincerity of his promise to correct his misappre-

hensions agreeably to any suggestions he might receive from Mr. Jackson. It is the last time I shall disgust my readers with any samples of such impudence, duplicity and meanness.

Mr. Smith begins this letter with a direct and positive contradiction even in terms, of what Mr. Jackson had said in his answer of Oct. 11th, and again in his letter of the 23d, and again in his letter of Nov. 4th. In the first of these, Mr. Jackson said—"I was not instructed to *renew to you those proposals*, nor to press upon your acceptance *an arrangement which had been so recently declined*." And in the second he said, "my instructions authorise me *not to renew proposals which have already been declared here to be unacceptable*." And in the last he said, [those proposals] now again brought forward, are "contained in *neither of my letters*; made no part of my *previous conversations* with you, and I have, *in no way*, given you room to *suppose* that I ever made any such [proposal] at all."

Turn we now to Mr. Smith's letter to Mr. Pinckney of the 23d of November, "It was in the outset perceived (says Mr. Smith) that *his object was to bring us to resume the subjects of the arrangement of April*, in a way that would imply that we were aware that the arrangement was not binding on his government." But afterwards, in a still more daring and scandalous manner, he says :

"With respect to the Orders in Council, the *ground* of the disavowal is the *difference* between the arrangement and the printed despatch of Mr. Canning to Mr. Erskine, of the 23d January. According to this despatch, then, the arrangement failed in three points.

"1st. In not relinquishing the trade of the United States with enemies' colonies.

"With respect to this point it is not necessary at this time to discuss the right of that trade. It is sufficient to remark," "that as this condition [the 3d] is allowed to have originated in a supposition that it would be agreeable to the American government, *why has it been persisted in after the error has been made known* by the representation of Mr. Erskine to his government, that neither this nor the other conditions of the despatch of the 23d January were attainable here?"

This is the man who talks so loud about offensive insinuations, insulting insinuations, contradictions by *implication*, forsooth : all which are to be sure "utterly inadmissible;" absolutely gross ; aye, "a gross attack on the honor and veracity of the government," such as forbids all further intercourse with the shocking person who was *never* guilty of it. But neither does Mr. Smith stop here. He proceeds thus :

"2d. Another point in the despatch, and not in the arrangement, is, that the *British navy might capture our trade* to ports prohibited by the United States.

"This condition, too, appears to have had its origin in a mistake of your meaning in a conversation with Mr. Canning, as noted by yourself, and in an inference thence deduced as to the disposition of this government. But this double mistake must have been brought to light in time to have been corrected in the *new* mission. In *urging it*, Mr. Canning has taken a ground forbidden by those *principles of decorum which regulate and mark the proceedings of governments towards each other*."

Thus he not only continues to impute to Mr. Jackson that he had stated, and had persisted in stating certain conditions as what he expected to obtain, well knowing that Mr. Jackson never did state them to him "in any way;" but he here advances a step further, and imputes to Mr. CANNING, that *he* too had taken the same ground; "a ground (he haughtily and affectedly adds) forbidden by those principles of decorum, which regulate and mark the proceedings of governments towards each other."

If there is any person of decent manners who, after reading all I have now exhibited, is not shocked with the duplicity, the dishonesty, the injustice, and the audacity of this man, this Mr. Smith, and who does not blush for his own government, such person's ideas of right and wrong, of truth and falsehood, of propriety and decorum, must be widely different from mine. This unhandsome behaviour towards Mr. Canning, which Mr. Smith goes out of his way to show, will seem less a problem, I suspect, after the appearance of a paper which I have written, and shall publish in my next, explanatory of Mr. Canning's letter of May 27th; which letter is now quite misunderstood by the public, owing to a misrepresentation of its contents by Mr. Smith, in his letter of the 19th October.

No. 8.

The Powers of a Minister.

In the preceding numbers, two objects have occupied our attention: one, to show that the Secretary of State had been guilty of grossly misrepresenting the views and language of Mr. Jackson; and secondly, that in doing so, he had been guilty of misrepresenting, and in obstinately continuing to misrepresent to the public very important facts, with a view to mislead the understandings, to warp the judgments, and instil prejudices into the minds of the people. These two objects have, I trust, been fully accomplished; but I think this a suitable occasion to present, in its proper colours, another similar instance of his gross misbehaviour towards this minister, and of misrepresentation towards the public: after which I shall proceed to the explanation of Mr. Canning's letter, as promised in my last.

With a view to put the British government in the wrong as to the disavowal of Mr. Erskine's arrangement, Mr. Smith opened his Vattel on the Law of Nations, and quoted the following position:

"To refuse with honour to ratify what has been concluded on by virtue of a full power, it is necessary that the government should have strong and solid reasons, and that he show in particular that his minister has violated his instructions."

Mr. Jackson, in answer, opposed the single remark, that the quotation could not possibly apply to the case before them, inasmuch as "Mr. Erskine *had no full power.*" To this Mr. Smith very strangely answers:

"For the *first time* it is now disclosed that the subjects, arranged with this government by your predecessor, are held not to be within the authority of a Minister Plenipotentiary, and that, *not having had* "a full power distinct from that authority, his transactions on those subjects might of right be disavowed by his government." This disclosure, so contrary to every *antecedent supposition* and just inference, gives a new aspect to this business."

Whether this remark proceeded from a real or an affected ignorance, I shall not pretend to determine. That Mr. Smith should set up the pretence that a Minister Plenipotentiary has a right, by virtue of his general quality, as Minister, to make a treaty, whether under the name of arrangement, or whatever name else, is so extraordinary, that I hardly know how to dispose of it. Certainly it is a pretence which can be supported by no authority on the law of nations. I shall not multiply quotations from books, especially as I have before me two cases in point which I fancy will impose silence, hereafter, on the boldest champion of Administration. The following from two authors of celebrity is all I shall offer.

"The powers of an Ambassador are nothing else than what a letter of attorney is in the case of individuals, and it is not above eighty years (says Wicquefort) since public Ministers did not disdain to be considered in the quality of procurators [or attornies] even in treaties made by them on behalf of crowned heads. The powers are an essential instrument of the embassy when a treaty is to be concluded, or a *particular affair of importance to be negociated*: in which it behoves each party *to be careful of the other and see that his powers be duly executed.*" Wicquefort, ch. 15.

"A *letter of credit* constitutes him to whom it is given a public Minister, establishes his quality as a Minister of the first, second or third degree; and authorises him to perform the ordinary duties of such minister; to discuss the interests of his sovereign; to transmit his letters; to solicit answers; to protect his subjects and to maintain the correspondence of the two states, &c. &c."

"For these ordinary affairs, a minister only wants his general letter of credit; but—*to sign a treaty he ought to have a full special power.*" De Real, 296.

"Full powers are ample procurations or powers of attorney, which a sovereign gives a minister to conclude a treaty, with a promise to ratify all that shall be so concluded." *id.*

"Besides the general terms in which a full power is expressed *it is necessary that the affair to be settled, should be specially noticed, before a Minister can be considered as duly authorised to conclude a treaty.*" *id.*

Such I take to be the established law of nations; without any thing to be found to shake it. But I am now to confront Mr. Smith with an authority nearer home, and one that I venture to assert will not be questioned by any member of the Administration.

Certain it is, that if Mr. Smith had not entirely forgotten Mr. Pinckney's letter of January, 1809, or of Mr. Erskine's first letter to him, in the correspondence of April last, he never could have advanced the opinion above quoted. He neither would

have ventured to maintain the doctrine, that a Minister Plenipotentiary is fully empowered by his general letter of credence, to conclude an arrangement binding on his Sovereign: nor would he have said that this was the first time the contrary opinion had been disclosed. I pray the reader's attention to the following quotation from the letter of their own Minister in London.

In Mr. Pinckney's letter of January last, transmitting what is called a brief account of an official conversation with Mr. Canning, he informed the government, that Mr. Canning seemed to think that a favourable opportunity would soon present for "removing the impediments to an arrangement with the United States on the subject of the Orders in Council and the Chesapeake." &c.

"It seemed (continues Mr. Pinckney) that the resolutions of the House of Representatives, if enacted into a law, might render it proper, if not indispensable, that the affair of the Chesapeake should be settled at the same time with the business of the Orders and Embargo, and this I understood to be Mr. Canning's opinion and wish. It followed, that the whole matter ought to be settled at Washington, and, as this was, moreover, desirable on various other grounds, I suggested, *that it would be well* (in case a special mission did not meet their approbation,) *that the NECESSARY POWERS should be sent to Mr. Erskine.*"

What will the worthy Secretary say to this? And what will the little Juggler say, who twitches the wires and communicates to him figure, life and motion? Will they maintain the affirmative and negative of the same proposition, at the same moment? Will they contend that special powers are and are not necessary at the same time, to the same individual, in the same transaction? But until they can reconcile these conflicting propositions, and make them all stand together, I advise them to observe an utter silence on this subject. I have not, however, done with them on the question of special powers or instructions. The following case will be found neither less pertinent, nor less forcible than the last.

In Mr. Erskine's first letter to Mr. Smith, in April last, (the terms having been settled between them, before it was officially delivered) Mr. Erskine expresses himself thus:

"It having been represented to his Majesty that the Congress," &c. "I have received his Majesty's commands, *in the event of such laws taking place, to offer,*" &c.

"Considering the act, passed by the Congress of the United States on the first of March, (usually termed the Non-intercourse Act) as having produced a state of equality, in the relations of the two belligerent powers, with respect to the United States, *I have to submit, CONFORMABLY TO INSTRUCTIONS,* for the consideration of the American government, such terms of satisfaction and reparation, as his Majesty is induced to believe will be accepted in the same spirit of conciliation with which they are proposed."

And in his second letter, he says:

"On these grounds and expectations, I am instructed to communicate to the American government, his Majesty's determination of *sending to the United States, an envoy extraordinary invested with full powers to conclude a treaty, on all the points of the relations between the two countries.*"

Mr. Smith answered thus :

"The President" "has authorised me to assure you that he will meet with a disposition correspondent with that of his Britannic Majesty, the determination of his Majesty, *to send to the United States a Special Envoy, invested with FULL POWERS* to conclude a treaty on all the points of the relations of the two countries."

Yet Mr. Smith tells Mr. Jackson that "*it is now for the first time disclosed*, that the subjects arranged with this government by your predecessor, are held not to be within the authority of a Minister Plenipotentiary," and that "*this disclosure, so contrary to every antecedent supposition and just inference, gives a new aspect to the business.*" And in his despatch to Mr. Pinckney of November 23d, he says, "certain it is the British government, in former like cases, did not consider any such distinct *full power* as necessary, nor is there the *slightest* ground for supposing that Mr. Erskine, though confessedly instructed to adjust this very case of the Chesapeake, *was furnished with any authority distinct from his credential letter.*" Candour itself must declare that Mr. Smith is reduced to chuse between a disgraceful ignorance of the laws of nations, and an iniquitous perversion of the truth. But he certainly shows, that either he had himself forgotten, or supposed the public had forgotten the correspondence of April ; and that he had no idea at the time he wrote, that Mr. Pinckney's letters would be called for by Congress.

In conclusion, it may be added, that all the precedents abroad, and all those of our government, without exception, show, that it has never before been supposed that a Minister Plenipotentiary, by virtue of his general letter of credence, is authorised to conclude a treaty or compact, so as to bind his sovereign ; but that full powers for that special object, have always been deemed necessary, and always been required. This fact is stated without fear of contradiction.

Having laid down the above extraordinary position, he flies off, and demands of Mr. Jackson the exhibition of a *full power* on his part ; which he now declares, all at once, to be "an indispensable preliminary to further negociation." In this, his design probably was to provoke Mr. Jackson to say something imprudent ; for Mr. Jackson had long before informed him of his having "a full power," and Mr. Smith had even expressed his satisfaction at hearing it. Mr. Jackson, however, chose not to see the design of Mr. Secretary. He replied in the following mild, but not unmeaning manner. And first, as to the novel doctrine, that a Minister Plenipotentiary may conclude an arrangement by virtue of his general letter of credence, he says :

"I am somewhat at a loss to give a distinct reply to that part of your letter which relates to Mr. Erskine's authority to conclude with you in virtue of his general letter of credence—because I do not very distinctly understand the tendency of it. I never before heard it doubted that a full power was requisite

to enable a Minister to conclude a treaty, or that a mere general letter of credence was insufficient for that purpose."

He then proceeds to state the inconveniencies and injuries that might arise from Mr. Smith's doctrine :

"If it were otherwise (says he) and a government were in all cases to be bound by the act, however unauthorised, of an accredited Minister, there would be no safety in the appointment of such a minister, and ratification would be useless."

He then assigns the following reasons that prevented his government from investing Mr. Erskine with full powers.

"No full power was given in the present case, because it was not a treaty, but the materials for forming a treaty that was in contemplation.

"In his despatch of the 23d of January, Mr. Secretary Canning distinctly says to Mr. Erskine—"Upon receiving through you on the part of the American government a distinct and official recognition of the three abovementioned conditions, his Majesty will lose no time in sending to America a Minister fully empowered to consign them a formal and regular treaty."

And lastly, he disposes of Mr. Smith's peremptory and premature demand of a sight of his own powers.

"I am surprised (says Mr. Jackson, as well he might be) at the transition by which it appears to you that this part of the subject is connected with the authority empowering me to negociate with you. It will not, I dare say, *have escaped your recollection* that I informed you at a very early period of our communications, that *in addition to the usual credential letter*, his Majesty had been pleased to invest me with *full power under the great seal of his kingdom*, for the express purpose of concluding a treaty or convention. I well remember your testifying your satisfaction at the circumstance ; and I have only now to add, that *I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided*, for the progress of our negociation."

This, though unexceptionable in itself, and though expressed in terms altogether unexceptionable, was a home push ; and one that Mr. Smith had no skill to parry. To be reminded that he could not but remember that he himself had admitted and testified his pleasure at admitting the very fact, which he here had so haughtily questioned, and to find the indignity so adroitly put back on himself in the conclusion, by offering to exchange powers, was enough to gravel a better man than Robert Smith, Esq. And it did gravel him compleatly, for he said no more about powers ; at least not until after he had imposed silence upon his antagonist, by the mandate of government ; and then, with a pitiful meanness of spirit, he published an answer in which he very manfully gave the foreign Minister the lie direct. Take his own language ; which I feel an almost insuperable reluctance to quote while I do so.

"With respect to his written project it will suffice to remark :"

"2dly. That although he had given us to understand that the ordinary credentials, such alone as he had delivered, could not bind his government in such a case, his proposal *had neither been preceded by nor accompanied with the exhibition of other commission or full power* ; nor indeed has he ever given sufficient reason to suppose that he had any such full power to exhibit in relation to this particular case. It is true that in his letter of the 23d October, he had stated an authority eventually to conclude a convention between the two countries. With

out adverting to the ambiguity of the term *eventually*, with the mark of emphasis attached to it, and to other uncertainties in the phraseology, *it is clear* that the authority referred to, whatever it may be, is derived from instructions *subject to his own discretion*, and *not from a patent commission*, such as might be properly called for. It is true, also in his letter of the 5th of November, subsequent to his proposal, he says he was possessed of a *full power*, in due form, for the express purpose of concluding a treaty or convention.

“But it still remains uncertain, whether by the treaty or convention to which it related, was not meant an *eventual* or provisional treaty on the general relations between the two countries, *without any reference to the case of the Chesapeake.*”

The subtleties and distinctions here resorted to with a view to perplex the public mind, and make erroneous impressions shall not avail their author: on the contrary, it will be shewn, that they only serve to fortify the charge of indecorum, by adding to it that of misrepresentation and baseness.

If I can understand language, here is a denial that Mr. Jackson ever exhibited a *full power*; a denial that he had ever given sufficient reason to *suppose* that he *had* any such *full power* to exhibit; and then, (after quoting his own words from his Nov. letter, informing Mr. Smith that “he *was* possessed of a *full power* for the express purpose of concluding a treaty or convention,”) jeeringly and impudently questioning his meaning, and affecting to doubt whether he did not mean that his *full power* merely related to “a *provisional* treaty without any reference to the case of the Chesapeake.” “It is true (says Mr. Smith) that in his letter of Oct. 23, he has stated an authority *eventually* to conclude a convention;” which, he asserts, is “ambiguous and uncertain.” I am sorry that I am here compelled to accuse Mr. Smith of basely and fraudulently suppressing a material part of the passage he pretends to quote. The whole, taken together, not only is free from ambiguity and uncertainty, but meets the very objection just taken, about the Chesapeake. I copy it faithfully, let the reader attend to it.

“My instructions” “look to substituting for notions of good understanding, erroneously entertained, practical stipulations, *on which a real reconciliation of all differences may be substantially founded*; and they authorise me *not* to renew proposals which have already been declared here to be unacceptable, but to receive and discuss any proposal made on the part of the U. S. and *eventually to conclude a convention between the two countries.*”

What more explicit can be asked? Mr. Jackson declare, not merely, that he has power to conclude a convention, but to “*reconcile ALL differences whatever,*” (of course the difference respecting the Chesapeake,) and, when all differences should thus have been disposed of, then, “*eventually to conclude a convention between the two countries.*”

But what will the reader think if I show him that Mr. Smith had himself admitted that Mr. Jackson’s powers did extend to the very case of the Chesapeake; nay, declared that they extended to the case of the Chesapeake *only*?

"There was no part of the subject to which that intimation applied with more force than the *affair of the Chesapeake* ; because, on that point, and ~~on~~ *that alone*, you had expressly stated that you had propositions to make, and that you were authorised to carry them into immediate execution."

Lastly, as to his assertion that "it is clear that Mr. Jackson had no full powers under a patent commission," he had been expressly informed by Mr. Jackson, in his letter of November, that "for this purpose, in addition to the usual credential letter, his majesty had been pleased to invest him with a *full power under the great seal of his kingdom*;" offering, at the same time, to exhibit it, and to exchange it against the full power of Mr. Smith.

I have done. I quit the contemplation of such scandalous conduct in utter disgust. I am shocked and amazed. And I cannot help declaring that I regard this as such a barefaced act of injustice and insolence, toward the individual concerned, and such an impudent attempt at deception upon the public, that it hurts my honest feelings even to hold it up and expose it in its true light.

No. 9.

Mr. Pinckney's and Mr. Canning's Letters.

At length we have obtained a sight of partial extracts from Mr. Pinckney's letters to Mr. Smith,* to which the latter has more than once, in the course of his correspondence with Mr. Jackson, alluded. And though what appears shows that more important parts are still behind, yet the perusal of what we are permitted to see, together with that of Mr. Canning's letter of the 27th of May, enables us to set the public right as to a fact of some consequence, concerning which they have been misled by Mr. Smith, in his letter of October 19th ; in which he insists that the explanation of the disavowal should have been made by Mr. Erskine's successor, and that both Mr. Pinckney and Mr. Canning had given assurances that this was to be so done. In that letter Mr. Smith informs Mr. Jackson, that "the president expected a formal and satisfactory explanation of the reasons for the refusal of his Britannic Majesty to carry the arrangement of his predecessor into effect."

"He persists (says Mr. Smith) in that expectation, and in the opinion that there has been given no explanation that is adequate, either as to the matter or as to the *mode*."

"It has not escaped observation, that the obligation of your government to tender explanations on this occasion is admitted by your attempt to shew that it has been sufficiently done in what passed in conversation between Mr. Canning and Mr. Pinckney, and by the instructions given to Mr. Erskine to communicate such explanations.

* *The President sent these partial extracts to the House in compliance with their resolution calling for such parts of them, as he, in his discretion, might think proper to communicate. This discretion he did not scruple to exercise pretty freely.*

“ With every disposition to view in the most favourable light whatever may affect the relations between the two countries, it is impossible to mistake the conversations of those ministers for a discharge of such a debt to the good faith and reasonable expectations of the United States. Besides that they were mere conversations, in a case requiring the precision and respect of a formal communication, it is certain that it *was neither understood by Mr. Pinckney nor intended by Mr. Canning*, that those conversations were so to be regarded.— *Mr. Pinckney is explicit on this point.* And *Mr. Canning himself*, after declining to recapitulate in writing what he had verbally remarked, *signified to Mr. Pinckney in a letter dated May 27th, that his observations on the subject would be more properly made through the successor of Mr. Erskine*, who was about to proceed to the United States.

“ The supposition, that the delay incident to your mission gave rise to the conversation of Mr. Canning and Mr. Pinckney, is not reconcilable to the correspondence of the latter, which contains no such indication. On the contrary, it distinctly shews that he was apprised of the intention to replace Mr. Erskine by a successor whom he regarded as the proper channel for the explanatory communication; that he understood Mr. Canning to be under the same impression.”

The letters of Mr. Pinckney are now partially before the public, and if they contain, any one of them, the intimation above stated, it has escaped my repeated research. They contain nothing to justify Mr. Smith’s statement. Mr. Canning’s letter, too, above referred to, of the 27th of May, is also before the public entire, and neither does it contain any thing like what is above stated. But as to this letter of Mr. Canning’s, the public have fallen into the misunderstanding it was intended they should fall into. Almost every body I have conversed with, supposes that Mr. Canning did, in his letter of May, promise Mr. Pinckney what Mr. Smith has ascribed to him. That letter will speak for itself. I now copy it, entire, and let the reader examine it for himself.

Mr. Canning to Mr. Pinckney.

“ Foreign Office, May 27, 1809.

“ Sir—According to the intimation which I gave to you in our last conference, I have now the honour to inclose to you a copy of the Order in Council, which his Majesty has directed to be issued for the purpose of preventing, as far as possible, any inconvenience or detriment to the merchants of the United States, who may have entered into commercial speculations on the faith of the unauthorised engagements of Mr. Erskine, previously to the notification in America of his Majesty’s disavowal of those engagements.

“ Having had the honour to read to *you in extenso* the instructions with which Mr. Erskine was furnished, *it is not necessary* for me to enter into *any* explanation of those points in which Mr. Erskine has acted, not only *not in conformity*, but in *direct contradiction* to them.

“ I forbear *equally* from troubling you, Sir, with any comment on the manner in which Mr. Erskine’s communications have been received by the American government, or upon the terms and spirit of *Mr. Smith’s share* of the correspondence.

“ *Such observations* will be communicated more properly through the *Minister*, whom his Majesty has directed to proceed to America—not on any special mission, (which Mr. Erskine was not authorised to promise, except upon conditions, not one of which he has obtained,) but as *the successor of Mr. Erskine*, whom his Majesty has not lost a moment in recalling.

“ I have the honour to be, with great consideration, Sir, your most obedient, humble servant.

(Signed)

“ GEORGE CANNING.”

If I can understand English, the above extract intimates no such thing as that explanations of the disavowal of Mr. Erskine's arrangement, were to be sent by Mr. Jackson : On the contrary, Mr. Canning intimates to Mr. Pinckney that the communication to *him* of Mr. Erskine's instructions *in extenso*, was *in itself*, ample and sufficient explanation of the refusal to ratify the arrangement, inasmuch, as it clearly appeared, from the bare reading of those instructions, that Mr. Erskine had acted, not only, not in conformity with them, but *in direct contradiction to them*. And so it was. It was not, says Mr. Canning, necessary to enter into *any explanation* of those points. Nor was it.

He then comes to another and a distinct topic :

"I forbear, *equally* (says he) from troubling you, sir, with any comment on the *manner* in which Mr. Erskine's communications, have been received by the American government ; *or upon the terms and spirit of Mr. Smith's share in the correspondence.*"

"*SUCH observations,*" (he continues, that is, observations applicable to these two last points) "will be communicated more properly *through the minister* whom his Majesty has directed to proceed to America." And so they have. Explanatory observations, as to *these two points* have, in truth, been made by Mr. Jackson. In his last letter of Oct. 11, he says—

"I touch with considerable and very sincere reluctance upon that part of your letter, in which you state that I had not assigned "any reason whatever why the reasonable terms of satisfaction tendered and accepted have not been carried into effect."

"I believe that I had observed to you, in the words of my instructions, that if his Majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, his Majesty might be well warranted in doing so both *by the form in which his accredited Minister had tendered that reparation*, and *by the manner in which that tender had been received*. I believe that I elucidated this observation by a reference to the particular expressions, which made the terms of satisfaction appear to be unexceptionable even to the American government, at the very moment when they were accepted, and which, at all events, put it totally out of his Majesty's power to ratify and confirm any act in which such expressions were contained."

"I will nevertheless avail myself of that mode which he still permits, to repeat to you that his Majesty has authorised me, notwithstanding the *ungracious manner* in which his former offer of satisfaction for the affair of the Chesapeake was received, to renew that which Mr. Erskine was instructed to make."

This, I am sensible, wants a little explanation to the people, though it certainly wanted none at all to those to whom it was addressed. *They* knew, full well, what it meant ; as will be seen in the sequel. And although Mr. Smith, in his despatch to Mr. Pinckney, after the correspondence with Mr. Jackson was closed, chuses to say that Mr. Jackson's "allusions to certain expressions wanted that distinctness prerequisite to a reply," where will he find credulity to believe him ?

I will now show what these expressions were ; what the "ungracious manner" was ; and what was the objectionable form in

which Mr. Erskine had tendered reparation. For this purpose, we must turn back to the correspondence containing the arrangement between Messrs. Smith and Erskine, as settled on the 19th of April last ; which was committed to type before the ink was quite dry, so as to be published and arrive in New-York, a distance of two hundred and thirty miles, in about eight and forty hours, and to be sent by express into all the Western District, just in time to try to save a lost election. This correspondence has been almost forgotten, and some extracts are necessary to refresh the reader's memory.

Mr. Erskine, in his first letter, after a short introduction, begins with a recital, that it having been represented to his Majesty's government that Congress had evinced an intention of passing certain laws which would place Great Britain on the footing of other belligerents, he had, accordingly, received his Majesty's commands, in such event, to offer reparation for the attack of the Chesapeake, &c. And considering the Nonintercourse act as having produced such equality, he informs Mr. Smith that he has such and such terms to submit, "CONFORMABLY TO INSTRUCTIONS."

In answer to this, Mr. Smith informs him, that he has laid before the President, his letter, in which he had declared his Majesty's desire of making honourable reparation, &c. (repeating the terms, but taking special care to omit every thing relating to the basis on which the reparation was tendered, that is, the act placing Great Britain on the same footing with France, by annulling the proclamation of July 2d, 1807;) and then informs him, that the President receives with pleasure his assurances that his Majesty was desirous of an adjustment of differences, & was willing to "make atonement for the insult and aggression committed by one of his naval officers in the attack on the United States frigate the Chesapeake." He, however, not only carefully omitted to make a fair recital, but, it will be seen, took special care to withdraw the very grounds on which, alone, the arrangement was to have been made. Take his own language.

"As it appears (said he) at the same time, that in making this offer [of reparation] his Britannic Majesty derives a motive from the equality now existing in the relations of the United States with the two belligerent powers, the President owes to the occasion, and to himself, to let it be understood that this equality is a result incident to a state of things growing out of DISTINCT CONSIDERATIONS."

Well might it be observed that "such impressions indicated dissatisfaction on the part of the American government itself?

It is impossible not to see that this was taking from Mr. Erskine the very ground on which he stood, and on which, alone, he was authorised to stand. It, therefore, can excite no surprise to find that Mr. Jackson was instructed to assign this to Mr. Smith,

as one of the motives for disavowing Mr. Erskine's arrangement. In Mr. Jackson's letter of November 4th, he says :

"That nothing required by the most scrupulous accuracy may be wanting, I now add, that the deviation [of Mr. Erskine from his instructions] consisted in *not recording in the official documents* signed here, the abrogation of the Presidents proclamation of the 2d of July, 1807."

And had he said "*in studiously omitting* to record in the documents," he would have been still nearer the truth. Let us now advert to the *particular expressions* which Mr. Jackson says

"Made the terms of satisfaction appear to be unacceptable even to the American government, at the very moment when they were accepted, and which, at all events, *put it totally out of his Majesty's power* to ratify and confirm any act in which such expressions were contained."

Mr. Smith, having informed Mr. Erskine that the President, with the explanation before given, had accepted his note, and would consider the same with its engagements when fulfilled, as satisfaction, finished his letter thus :

"But I have it, in *express charge* from the President, to state, that while *he forbears to insist on a farther punishment of the officer*, he is not the less sensible of the justice and utility of such an example, nor *less persuaded* that IT WOULD BEST COMPORT WITH WHAT IS DUE FROM HIS BRITANNIC MAJESTY TO HIS OWN HONOUR."

And these dictatorial terms, this arrogant intimation to his own sovereign, how best to take care of his honour, Mr. Erskine very coolly pocketed, and proceeded quietly on with the correspondence. Will any one hereafter wonder that the king should instruct Mr. Jackson to say that such expressions "at all events, put it totally out of his Majesty's power to ratify and confirm any act in which such expressions were contained?" I sincerely and solemnly declare, I am utterly unable to resist the suspicion that these "irrelevant and improper expressions" were selected and made use of for the very purpose of making sure of a disavowal in London ; as the National Intelligencer very soon afterwards foretold would be the case.

And now, I presume, that Mr. Canning's expressions, in his letter to Mr. Pinckney, will no longer be misunderstood. No one will be, any longer, at a loss to understand what he means when he tells Mr. Pinckney, "I forbear equally from troubling you, sir, with a comment on the *manner, or upon the terms and spirit of Mr. Smith's share of the correspondence*. Such observations will be communicated more properly through the minister, whom his Majesty has directed to proceed to America."

The reader, I have no doubt, begins to wonder how he could ever have misunderstood Mr. Canning. Nor would he ever have misunderstood him, had not the Secretary of State taken pains to mislead the public on this, as on almost every other important fact, treated of in the correspondence.

The "Inadmissible Insinuation," what was it ? where is it ?

In the papers which I have hitherto had the honour to address to the public, I have principally confined myself to an examination of the conduct of Mr. Secretary Smith towards the British ambassador ; and unless I extremely deceive myself, have shown, that this conduct has been marked throughout, with disingenuous artifice, wilful and repeated misrepresentations, a total departure from urbanity, and the most flagrant injustice. Such has been the conviction produced by the proofs exhibited, that not a tool of the administration of any description, has been found abandoned enough to attempt to say a single word in his defence.

I am now, according to promise, to enter upon the examination of the conduct of the British ambassador, Mr. Jackson, towards Mr. Smith : which the latter has declared to have been so offensive, so indecorous, so insulting, as to forbid all further communications with him ; and for which Mr Jackson has been tried, convicted, and executed in the most summary manner, and, to finish the ceremony, very liberally abused and calumniated afterwards. On this novel proceeding, however, the people of the United States are still to pronounce their verdict : be it now my humble task to lay before them such facts and reasonings as may contribute to their pronouncing a just and righteous one.

As soon as the administration had fairly got rid of the British ambassador, and every member attached to his mission, so that no person any longer represented the English government at Washington, and Monsieur Turreau was left to lord it uncontrouled, there came out a semi-official statement in the National Intelligencer triumphantly announcing the fact to the public. It informed us, that in the correspondence, Mr. Jackson had "indecorously used a language implying that Mr. Erskine's instructions were, at the time, made *known* to this government," and that the same gross insinuations having been reiterated, "notwithstanding Mr. Smith's explicit asseveration of the contrary," Mr. Smith had informed him that "*such insinuations were inadmissible,*" and that "no farther communications would be received from him : " it concluded with telling us that "Mr. Jackson was to leave Washington immediately."

As Congress was to convene in just one fortnight after this time, it really seemed to many persons that it might have been full as well to wait that short period for their approbation of such a very decisive and important step before it was taken, as to take it first, and ask for their approbation afterwards. But all such men were soon silenced by the clamour of "*Rally round your government,* or be considered as belonging to a British faction."

Public impatience, however, continued to increase ; all was eagerness to see the message, and still more the correspondence. At length the first arrived, and every man, acquainted with the law of nations, was astonished to perceive the President laying down principles of that law never before heard of : nor was it possible altogether to stifle suspicion that there must have been some unprecedented conduct which required the shield of unprecedented law. The documents containing the correspondence of the two ministers were therefore looked for with more anxiety than ever. It was not long before they came, finishing with a ~~long~~ letter from one of the correspondents after he had imposed silence upon the other. From that moment every body has been busily engaged in the idle attempt to discover whereabouts in Mr. Jackson's letters, such an *inadmissible insinuation* lay, as rendered it impossible to have any thing more to do with him.

It is very clear, however, cries one, that it exists ; and so says another ; but it is, at least equally clear, that neither of these two gentlemen, nor any other two, have yet been able to agree exactly as to the spot where it lies. A grave and eloquent Senator claps his thumb upon it, in the two words "*could only*" in Mr. Jackson's first letter ; while a patriotic, candid and sagacious lawyer, declares it is contained in every part of the letter, and that Gen. Washington would have dismissed Jackson for any paragraph in it. A third, still more candid than he, admits that the insinuation is not, indeed, to be found any where in the first letter, but insists upon it with the National Intelligencer, that it is the second letter which "*indecorously uses a language implying*" the insinuation ; while a fourth gives up both the first and second letter as harmless, and agrees with the high-minded Secretary Smith himself, that the insult consists after all in *reiterating* a gross insinuation. But it would be endless to attempt to give all the numerous conjectures and various readings to which these letters of Mr. Jackson have been subjected. Shakspeare alone has so often and so ingeniously been put to the torture by the commentators. In short, this same "*inadmissible insinuation*," I fear, very much resembles a legendary jack-a-lantern, which is always, seemingly, but never, really, approachable ; which recedes as you advance, until, at last, it leads you through many a bog and briar, into the midst of some dismal swamp, where it vanishes with a broad laugh at you for your pains, and leaves you in mire and darkness.

As it has, however, become a part of the task I have undertaken, to join the croud in the search after it, I shall pursue it closely and with so much zeal, that if I do not come up with it, and seize it, I shall be obliged to conclude it is nothing, after all, but an *ignis fatuus*, set on foot to mislead and delude. In this pursuit of it, I think the best way to proceed, will be to go first to Mr. Smith himself, and get his description of it, and of the route I must take to find it.

An Artifice—a contemptible Artifice.

We have proposed to apply to Mr. Smith, himself, for a more particular description of this *Insinuation*, and to follow the route that he shall point out, in order to enable us to find it with the greater certainty. Mr. Smith it seems, has anticipated our request, and hastened to gratify our wishes. Behold what he says to our minister in London :

“It was in the outset perceived, that *his object was to bring us to resume the subjects of the arrangement of April, in a way, that would imply that we were aware that the arrangement was not binding on his government, because made with a knowledge on our part that Mr. Erskine had no authority to make it, and thus to convert the responsibility of his government for the disavowal into a reproach on this for its conduct in the transaction disavowed.* In the first instance, it was deemed best rather to repel his observations argumentatively, than to meet them as an offensive insinuation. This forbearance had not the expected effect of restraining him from a repetition of the offence. And even on his further insinuations, nothing more was done than to premonish him of the inadmissibility of so indecorous a course of proceeding. This also being without effect, nothing remained but the step finally taken.”

Here I am grieved to be once more obliged to contradict Mr. Smith on the fact : it really seems to be his fate never to be able to state any circumstance, without misrepresenting it. For, it certainly will “in the outset be perceived,” by every person who has read the correspondence, with any attention, and remembers what he has read, that the Secretary begins with a down-right and thrice repeated misrepresentation. So far is it from being true, judging from the documentary evidence before the public, that it was ever Mr. Jackson’s object, or the object of his government, to bring us to “*resume the subjects of the arrangement of April,*” that, not only had Mr. Jackson assured him over and over again, in the most explicit manner, that he had no such intention, as I have already shown by extracts from his letters, but similar assurances had long before been received by him from our Minister in London. It cannot, therefore, be believed that the administration entertained even a suspicion that such was Mr. Jackson’s object. Mr. Pinckney told them in his letter of June 23d, that, in conversing with Mr. Canning concerning the three conditions, that were at first to have made part of that arrangement—

“Mr. Canning admitted that the second condition [concerning the colonial trade] had no necessary connection with the orders in council, and he intimated that *they would have been content to leave the subject of it to future discussion and arrangement.* He added that this condition was inserted in Mr. Erskine’s instructions, *because it had appeared from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it.*”

“Upon the third condition I said a very few words. I re-stated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended. Mr. Canning immediately said, that he was himself of opinion that the idea upon which that

condition turns, could not well *find its way into a stipulation*; that he had nevertheless, believed it proper to *propose* the condition to the United States, but that *he should have been satisfied with the rejection of it.*"

And it is among the first things stated by Mr. Jackson, that he was *not* instructed to *renew proposals* nor *press an arrangement so recently declined*; and afterwards, that he was "authorised *not to renew proposals already declared unacceptable*;" and yet Mr. Smith begins his letter to Mr. Pinckney, (as has been already observed, when treating of another topic,) with asserting, that Mr. Jackson's object was, to resume the subjects of the arrangement of April. In this, *more is meant than meets the ear*. His words are, that Mr. Jackson's design, in this, was to

"Bring them to resume the subjects of the arrangement of April, in a way that would imply that they were aware that the arrangement was not binding, **BECAUSE** made with a knowledge on our part that Mr. Erskine had no authority to make it, and thus convert the responsibility of his government for the disavowal into a *reproach* on this for its conduct in the transaction disavowed."

I must beg the reader to examine this quotation once more and to bear it in mind, for unless I am deceived it is the clue to a labyrinth.

Had Mr. Jackson's object really been to *reproach* this government with a fraudulent collusion with Mr. Erskine, it would, I admit, have been material to such a charge, to bring home to them the *knowledge* of Mr. Erskine's want of authority; that is, what, at the bar, is called a *scienter*; which is always essential to make out the case of *fraud*, but to no other case. And where, in what part of the correspondence, does this appear to have been Mr. Jackson's object? In what despatch from Mr. Canning? In what letter from Mr. Pinckney, detailing his conversations with the British Secretary? In what quarter, and at what time, has Mr. Jackson's government ever intimated any intention to *reproach* this for its conduct in the transaction disavowed? Take care, Mr. Secretary, least you remind the world that *conscience* sometimes acts without an accuser, and that, on the present occasion, it has been a little too busy for some people's quiet.—Whatever may have been the truth, or whatever the suspicions of the British government, certain it is, that it has been content to state the single fact that Mr. Erskine did violate his instructions; nor, up to this moment, has there ever appeared any thing that looked like a design to *reproach* our government with fraud: consequently, there never could have been any intention to charge them with a *knowledge* of Mr. Erskine's violation; the simple violation, being, in itself, ample justification of such disavowal. The attempt, therefore, to fasten upon Mr. Jackson so odious an imputation as that he had made such a charge, is no better than an artifice, a contemptible artifice; as I hope to show.

That violated instructions cannot bind, but subject all agreements made under them, to be disavowed, without assigning any other cause, will never be questioned by any man conversant with

national law, or endued with a moderate portion of common sense : and, that a general letter of credence, unaccompanied with a "full power," never authorises a minister to conclude an arrangement, so as to bind his sovereign, is apparent from the examination, not only of precedents abroad, but of every precedent at home, from the time of the formation of the government, down to the administration of Mr. Jefferson himself.

The administration, however, do well in attempting to establish a different doctrine : for a different doctrine, only, can answer their purpose. If, as Mr. Madison has ventured in his Message to state, they could succeed in showing it to be the law of nations, that, in order to justify a disavowal of engagements, it is necessary for the party disavowing to show, not only, that his Minister violated his instructions, but that he made the other party, a *particeps criminis*, by giving him notice at the time that he was violating them, then, I admit, they will have accomplished something in support of a cause, which, in truth, stands in need of support, and which, after all, can find it, I suspect, no where else. Those who take that side of the argument, take the affirmative, and of course are bound to produce the law on which they rely : I will, therefore, as in fair argument, I may, content myself, at present, with denying it. I say then it is not law ; it never was law ; nor it never can be law ; and I challenge the whole host of ministerial writers to produce a shadow of authority, in any work of reputation, ancient or modern, that but glances towards so absurd a doctrine. Such, however, is the doctrine advanced by the administration ; they insist on the *scienter's* being essential ; and knowing, whatever may be the fact, that good care has been taken to afford neither Erskine, nor any one else, any chance of *proving* it upon them, they are bold in their denials ; and they are incessant in their attempts to put it forward and press it upon the public, as the point of main importance.

By this time, I think, the reader will begin to see through the artifice of imputing to Mr. Jackson, that he has charged the government with a *knowledge* at the time, that Mr. Erskine was departing from his instructions. Nothing is more common with a dishonest advocate of a bad cause, than to attempt to place his adversary on ground of his own, in order to assail him with an advantage which the true and fair ground would not afford him. Hence it is, that Mr. Smith never ceases, for a moment, to insist on Mr. Jackson's having made this *knowledge* a part of his case ; influenced, by the double motive of obtaining a prop for his cause, and at the same time, of showing his opponent in an odious light, before the public. Mr. Jackson must, however, have been a very weak man, instead of the able and expert diplomatist which they say he is, if he did not know better where the merits of his case lay. He certainly did know better. He did know that the *scienter* made no part of it.—Whatever may have been his private

opinion as to the fact, yet for him to have insisted upon *bringing home* to the administration a *knowledge* of Mr. Erskine's departure from his instructions, would have been trifling and impertinent, and the most egregious folly: it would have been to give up the good and sufficient ground, which he already had to stand upon, for that which was probably untenable, and which, whether tenable or not, was of no sort of importance. It, therefore, is not to be *presumed* that Mr. Jackson did take the ground imputed to him; to show that he did, requires something more than equivocal evidence; it requires nothing less than positive proof. Let us now then open the volume of documents before us, and see if it really does contain such proof.

No. 12.

The Correspondence.

I must have written these numbers to very little purpose, even thus far, if my readers have not already had more than suspicions awakened that the president and his ministers have been, for some time, engaged in the very honourable business of attempting to impose upon the honest credulity of the people. So far as we have gone in our enquiries, it has appeared that not a single circumstance of any moment has been permitted to come forth in the simple light of truth. Artifice and misrepresentation mark every step that they have taken: the real merits of questions are kept, as much as possible, out of sight; false or irrelevant pretexts are substituted for true grounds, and no pains are spared to make the public see every thing through a deceptive medium.

In the last number, it was my purpose to show that the administration had attempted to deceive the people by laying down a false position in the law of nations, viz. that in order to justify a sovereign in disavowing the agreement of a minister authorised to conclude it, it is necessary that he show that the other party had a *knowledge* at the time that the minister was unauthorised; a position, which I confidently affirm has neither law nor a single precedent, ancient or modern, to support it. It was my next endeavour to show that the administration, sensible that this false law was essential to their justification for having made the arrangement of April, had brought it forward on all occasions, and, in order to blind the people more effectually, had put it into Mr. Jackson's mouth, and insisted on its having been advanced by him, as essential to his case; at the same time, charging him with insulting them by thus advancing it. But, as it, in reality, did not in any shape belong to his case, and as it would have been the height of folly and mismanagement in him to have made it a part of it, and would have been totally irreconcilable with the character allowed

him on all hands for sagacity, and for his acquaintance with diplomacy and the law of nations, a very fair and very strong presumption arose that he had not been guilty of this folly and this mismanagement, and consequently, that he never had charged the administration with the *knowledge* in question. The presumption, however, must, I admit, give way to proof of the fact, if proof can be produced ; but then the proof must be neither equivocal nor slender ; it must be direct, positive and full to the point. Come we now to the correspondence itself in search of it.

The first letter that presents itself, is from Mr. Smith, dated the 9th of October : a letter, which, to my understanding, carries upon the face of it, marks of every thing but an amicable temper and disposition. The reader may guess at the surprise, with which the resident minister from the Court of Great Britain, who came to occupy the same place in this country that Mr. Pinckney occupies in that, must have read this letter : a letter informing him within the short space of six days after his arrival at the seat of government, and, after having had but two conferences with the Secretary of State, conducted too, it seems in apparent good humour on both sides, that no further communications would be received from him except in writing ; that he must no longer be allowed the opportunity of “ Those frank and friendly conversations which, as Mr. Madison tells Armstrong, sometimes best admit topics of a delicate nature, and in which pride and prejudice can be best managed without descending from the necessary level :” His surprise would not, I think, be diminished, on his more attentive examination of the contents of the letter. I suspect he must have experienced more than surprise, to find this letter questioning by strong implication the good faith of his sovereign, demanding what he had to say in his vindication, and at the same moment reminding him that he had already confessed he was not instructed to say any thing ; to find it containing a fallacious statement of what had passed in those two conferences ; that, in particular, it imputed to him, that he had insisted on obtaining from the United States, a formal stipulation, to accede to the three conditions of the January despatch ; affecting to give as the reason for demanding that “ further discussions must be in the written form,” that it “ was to avoid the misconceptions incident to oral proceedings,” and winding up with an assurance, carrying insincerity on the face of it, that Mr. Smith stood ready to correct any misrepresentations. It has fallen in my way to examine some parts of it already, and I have proved that not a word of what is imputed to Mr. Jackson is true ; but that the whole was a wicked and wilful misrepresentation ; artfully adopted and impudently persisted in to the end, for the purpose of rendering Mr. Jackson’s mission odious in the eyes of the people. This I have demonstrated by extracts from the documents themselves, including Mr. Pinckney’s letters, and in a manner, that never has.

been, nor never can be answered. Having disposed of the latter part of this letter, I must now beg the favour of the reader to accompany me back to its beginning.

The letter sets out with informing Mr. Jackson, in a stately style, of the arrangement which had been made with his predecessor, and of its having been disavowed by his Britannic Majesty, and then proceeds to make a formal demand of an explanation or apology for his conduct. It is couched in the following terms :

“Sir——An arrangement, as to the revocation of the British Orders in Council, as well as to the satisfaction required in the case of the attack on the Chesapeake frigate, has been made in due form by the government of the U. States with David Montague Erskine, Esq. an accredited Minister Plenipotentiary of his Britannic Majesty. And after it had been faithfully carried into execution on the part of this government, and under circumstances rendering its effects on the relative situation of the United States irrevocable, and in some respects irreparable, his Britannic Majesty has deemed it proper to disavow it, to recal his minister, and to send another to take his place.

“In such a state of things, no expectation could be more reasonable, no course of proceeding more *obviously* prescribed by the *ordinary respect due to the disappointed party*, than a *prompt and explicit explanation by the new functionary, of the grounds of the refusal on the part of his government to abide by an arrangement so solemnly made*—accompanied by a substitution of other propositions.”

I like this self-respect, this high sense of honor ; it is one of the best safeguards of virtue, and therefore nations, as well as individuals, cannot be too nice and scrupulous in keeping it always bright and untarnished. I, however, never had a very exalted idea of that man's or that nation's sense of honour, which, while it resents a frown from one quarter, and “falls a scolding like a very drab,” patiently takes blows and kicks from another. As to the honour of our present high-minded administration, it seems very much to resemble unworked small beer, which, being well corked and bottled, is put aside for future use. A Spanish minister may beard them to their faces, at least, he might formerly, when seconded by Bonaparte ; and a French admiral may at any time sink and burn their ships, stamp on their flag, and imprison and starve their citizens ; all this passes off without the least murmur or even a wry face. It is to be sure admitted by Madison to be, especially “the burning neutral vessels on the high seas, the *most* distressing of all the modes by which the belligerents use force contrary to right ;” but even this, the gentle Armstrong is cautioned to say to Mr. Champagny in so delicate a manner, as “to leave the way open for *friendly and respectful explanations*.” But only let an English ambassador be suspected to *imply by insinuation* that Mr. Smith knew that *conditional* instructions must mean *restrictive* instructions, or a limitation of powers, and zounds ! their honour is up in a moment : bounce ! goes the cork ! out flies the precious liquor in your face !

But metaphor and badinage apart ; I deem it not impertinent to examine a little as to this right set up to demand the explana-

tion from the "new functionary"—We pass over for the present the peremptory style in which the demand is brought forward. An explanation, both prompt and explicit, is declared to be obviously prescribed by the respect which his Britannic Majesty owes the United States, as the disappointed party, for having refused to abide by an agreement so *solemnly* made, and so faithfully carried into execution on the part of the United States.—That such an explanation of the disavowal was originally proper to be made to the United States, as a courtesy, I admit, and that they received it long since, promptly and without delay, I shall prove, consequently, it was not due from the new functionary Mr. Jackson. But it is undeniably true, that his Britannic Majesty had at least, a commensurate right to demand an explanation from our government for concluding an arrangement with a minister without powers to make it, they, on their part, being equally without powers; thus presenting the extraordinary spectacle of an agreement by two parties, neither of whom had any authority to make it. But, lastly, the administration have a very serious and solemn explanation yet to make to the people of the United States for their conduct in concluding a void arrangement, which, we have their own word for it, has caused the country "irrevocable and irreparable injury." Each of these topics will be enforced in their order.

As to the explanation demanded of Mr. Jackson, I cannot believe that it was ever asked for, in the sincere belief that it was due; or under any supposition that it would be given. And for proof of this, we need go no further than this very letter, that we are now considering. For, after making the above peremptory demand of explanation from Mr. Jackson, Mr. Smith tells him,

"The president has learned with no less surprise than regret, that, in your several conferences with me you have stated, that, *you really have no instructions from your government which authorise you to make any explanation whatever* to this government, as to the reasons which had induced his Britannic Majesty to disavow the arrangement lately made by your predecessor, and that, therefore, you could not make any such explanation."

From this, it is very evident I think, that an explanation from Mr. Jackson was the least of their expectations. It was not, therefore, asked for, in good faith. Mr. Jackson had frankly admitted in conference that he had not come charged to give such explanation, and how eagerly they caught at the circumstance may be easily imagined, by the manner in which they ask for it, and by coupling with their request, what they think must preclude him from giving it.

Mr. Jackson, then, was not impowered to give the explanation. What a fine chance to break with him in the outset? If they could only get him to record this concession in a letter, the business was done in a twinkling. To make sure work, they first ask him, in great stateliness, for the explanation, and for fear he might forget himself, or perceiving the snare, elude it, they take good care,

in the very next sentence, to remind them, that he had already informed them that he was not instructed to make, and therefore could not make any such explanation. The snare was artfully laid, and it required no ordinary share of address to avoid it.

No. 13.

Same subject continued.

Let this letter of Mr. Smith's be carefully and attentively read: I venture to say, it will be found to contain more, much more than has been generally imagined; indeed, every one who thus reads it, will wonder that he could so slightly have passed over it at first. But if it is recollected under what impressions the documents were then taken up, the mystery vanishes in a moment.

As soon as the anxiously desired step of breaking off all intercourse with Mr. Jackson was fairly taken, a semi-official account of the rupture, (which now on a comparison with the correspondence, appears to have been written by the Secretary of State) was drawn up, and presented to the world, in a print known to be in the confidence of the Administration. This account represented in *good set terms*, that Mr. Jackson, the British Ambassador, had grossly insulted the government of this country, so that it was impossible, consistent with self respect, to hold any further intercourse with him, and a thousand presses circulated the accusation to all parts of the United States, accompanied with inflammatory appeals to the passions, and the patriotism of the people, and calling upon them to *Rally round the government*. Mr. Jackson was debarred from all counter-appeals in any shape whatever; and because, at last, a letter of his, addressed specially to the British Consuls resident among us, who, of course must have felt their honour and the honour of their country implicated in his, found its way to the press without his agency, (for aught that it has yet appeared) it was immediately discovered to be insolent and affrontive;—an “*Appeal to the people against their own government!*” This letter, however, on examination, is found simply to contain the statement of two plain facts, both of which, are on all hands, admitted to be true, and neither of which touches, in the least, the honour of the government; yet it has been eagerly seized on by them, magnified into a fancied importance, and at length brought before the councils of the nation, and made the basis of a solemn act of the Legislature; and this too, without a shadow of evidence as to the fact of publication by the writer. Those who have managed this business, were resolved that their own story should pass current, unobstructed by any thing, until it had had its full effect on the public mind; they knew full well that “the

energy of a vindication, come when it may, is no way equal to the force of an accusation:" and they calculated, that, in this case, it must be irresistible when no vindication whatever was permitted to approach it. "The consequence was natural. The public opinion became fixed on the point. And a slander, that has once got possession of the general faith, is the most difficult of all prejudices to be removed." Hence it was, that when, at last, the documents made their appearance, we took them up under the full persuasion that it would only be necessary to turn to the letters of Mr. Jackson, to behold its insolence in all its grossness and deformity; not at all to be convinced of the truth of the statement we had had, for that nobody, doubted; but to discover the extreme length to which his irascible temper and want of due respect had carried him. Nobody, at the time, opened the documents with the expectation of finding any thing blameworthy on the part of Mr. Smith; not in the least; hence it has been, that nobody read this first letter, otherways than slightly, and merely to be prepared for what was to follow on the part of the insolent Jackson; and in full faith, of course, that it contained a fair and candid statement of facts.

I must now then, once more, ask the favour of the reader to recur with me to Mr. Smith's letter of the 9th of October.

I will suppose him to have just read it through; and I will then ask him, whether it carries upon the face of it, any indication of that temper and spirit to have been looked for on the part of our Administration if they were really and sincerely desirous of coming to a cordial understanding with Great Britain; of bringing to a fair and honourable adjustment all differences between the two countries, and establishing on a solid basis a lasting and cordial friendship? Has it, I ask, any one feature that charity itself can call either friendly or sincere? On the contrary, is it not dictatorial, abrupt, haughty and peremptory; and has it not already been shown to be a tissue of artful and bold misrepresentations, woven by the hand of artifice, dishonesty and dissimulation? A further examination will stamp this character upon it in lines still more forcible. "They reflected not that impartial criticism would in time break through and disperse the clouds in which they had wrapped themselves up for their mischievous purposes, and expose them in their fiend-like operations, to the gaze of men." Little did they imagine while they were secretly triumphing in the anticipated success of their machinations; while they were pluming themselves on their dexterity of management, that, although they might succeed to the utmost of their wishes, yet the hour was not far distant when all their machinations would but "*return to plague the inventors.*"

The letter commences with giving Mr. Jackson to understand that it was due to them as a mark of ordinary respect, that he should begin by making an explanation, or apology for the con-

duct of his sovereign in having disavowed Mr. Erskine's arrangement ; at the same time, reminding him that he had already informed them that he had no instructions which authorised him to make it. I have admitted that they, originally, might have entertained the expectation that they should receive such an explanation *as a matter of courtesy* ; and when I shall have placed the transaction, I mean the "solemn arrangement," as they call it, in its true light before the public, I believe it will then be allowed, that I have admitted full as much as they are entitled to. But for the present, and for the sake of the argument, I will go a step further, and admit that they had a strict right to expect from his Britannic Majesty, an explanation of the disavowal ; not, however, *an apology* for it. This explanation, they have received long since ; and ought to have been satisfied with it ; consequently, they had no right to expect a repetition of it at the hands of Mr. Jackson.

Mr. Jackson in his letter of the 11th of October, informs Mr. Smith, and Mr. Smith no where ventures to question his correctness in this particular, that in the last instructions, conveying to Mr. Erskine the disavowal of his Majesty, the reasons of that disavowal were "very fully and forcibly stated," to be by him transmitted to Mr. Smith, and, that if he omitted to do so, it must have been owing to "the delicacy and embarrassment of his situations." To which Mr. Smith answers, churlishly, that it was not a mark of respect, ("*friendly respect*," is his phrase,) to employ a Minister to explain the reasons of the disavowal "from whom his government had thought proper publicly to withdraw its confidence." To say nothing of this far-fetched scrupulosity, Mr. Smith chose to forget, that whatever his own government might have done, this government continued its confidence towards Mr. Erskine long after his recal ; at least, long enough to enter into a public official correspondence with him in order to draw from him concessions, exculpatory of the Administration : besides, Mr. Smith could not, without great affectation, pretend, that Mr. Erskine's government, by their recal of him, as Minister resident, did not repose sufficient confidence in him to entrust him to make the very explanation which they instructed him to make. After all, who can believe, who, that knows how intimate Mr. Erskine and Smith, personally were, *can* believe that Mr. Erskine did not communicate to him the reasons of the disavowal ? But Mr. Jackson very politely and good naturedly goes on to find an apology for Mr. Erskine's having omitted to communicate them, (allowing such to be the fact) by supposing that Mr. Erskine must have thought it unnecessary to do so, "as a *full and ample* communication was made upon the subject, by his Majesty's Secretary of State for foreign affairs to Mr. Pinckney ; to whom the *whole* of Mr. Erskine's original instruction was read." Again, more particularly :

“His Majesty’s government, not only instructed the Minister who had made the disavowed arrangements as to the motives which occasioned the disavowal, but also with frankness, promptitude, and a most scrupulous regard to national honour, gave notice to the American Minister in London of the disavowal, OF THE MOTIVES OF IT, and of the precautions spontaneously taken by his Majesty to prevent any loss or injury accruing to the citizens of the United States from a reliance on any agreement, however unauthorised, made in his Majesty’s name.”

What more could be desired? Here was not only all that in right could have been demanded, but all that in courtesy could have been hoped for ; and I confidently answer, that, had they not been determined on seeking, or making cause of quarrel, nothing more. That such notice was actually given to Mr. Pinckney, with such explanation of the motives for the disavowal, and by him transmitted officially to his government, appears from the letters of Mr. Pinckney himself.—1st. In a long letter dated May 28th, in which he tells his government that Mr. Canning had read to him, Mr. Erskine’s instructions *in extenso*, and informed him, that Mr. Erskine had acted in direct opposition to them, and that, therefore, his act would be disavowed ; which letter, Mr. Pinckney concludes with—what? With a *complaint* against the British government for the disavowal? No ; for he had no doubt of the King’s right to have recourse to it ; and he therefore simply observes, that he “ could do little more than *manifest his concern*.” 2d. In Mr. Pinckney’s letter of the 9th of June, inclosing the instructions themselves. His accompanying remarks have been suppressed ; but had he complained, or remonstrated, there can be no doubt, that would have been published at full length. Was not this information, and explanation enough? Well might Mr. Jackson remark, that, “ the difference between the conditions of the despatch, and those contained in the arrangement of the 18th and 19th of April, was sufficiently obvious to require no elucidation.” This difference itself carried the explanation on the face of it. 3d. In Mr. Pinckney’s letter of the 22d of June, informing his government of another interview with Mr. Canning on the subject of the arrangement ; in which, after repeating the terms of the three conditions of the instructions, Mr. Canning told him that they should be content to withdraw the two exceptionable ones.

But, as to the explanation given to Mr. Pinckney, Mr. Smith declares “ it is impossible to mistake the *conversations* of those ministers, (Pinckney and Canning,) for a discharge of such a *debt* to the GOOD FAITH and reasonable expectations of the United States. Besides, (he says) they were mere *conversations* in a case requiring the precision and report of a *formal communication*.”

Lastly, it appears, that not only did not Mr. Pinckney complain of the disavowal to Mr. Canning, but that Mr. Smith never complained to Mr. Erskine, at Washington: “ In the records of Mr. Erskine’s mission, (says, Mr. Jackson,) there is no trace

of complaint ;” Nor had Mr. Smith, in his conferences with Mr. Jackson, “distinctly announced any such complaint.” This is impliedly admitted by Mr. Smith himself ; who, though, he says, he repeatedly *intimated* to Mr. Jackson the necessity of explanations, yet, accounts for his not having distinctly complained, by saying, that “they *could not* have entered such complaint before the reasons of the disavowal had been explained.” And a curious reason it is. A man is never to complain of an injury till he has first heard the other party explain himself. I believe, the world’s experience has been otherwise. The next thing that usually comes, in order, after an injury, is the complaint of the suffering party ; then follows the explanation ; and lastly the acceptance or refusal of the explanation.

Taking then, the explanation that had been given, first, to Mr. Erskine himself, with orders to communicate it to our government, secondly, that given “with frankness and promptitude,” to Mr. Pinckney in London, and finally, the total absence of all complaint either to Mr. Pinckney, to Mr. Erskine, or even to Mr. Jackson, himself, in their verbal conferences, it surely can excite no surprise to hear Mr. Jackson observe, that “it could not be supposed in London, that a *repetition* of explanation would be expected from *him* ; and, of course, that no provision for such a case had been inserted in his instructions.” Nevertheless, anxious to remove every obstacle, real or pretended, he proceeds, himself, to repeat the information once more, and a third time to give them the explanation, in very explicit, and at the same time, very respectful terms. But all would not avail : receive an explanation they would not. All that could be said or done, on this point, the President was not satisfied. He still declared that no explanation had been given, suitable to the solemnity of the occasion.

“You have been *sufficiently* apprised, says Mr. Smith, by my letter of the ninth, of the light in which the President views the arrangement lately made by your predecessor with this government, and of the grounds on which he has expected a *formal and satisfactory explanation* of the reasons for the refusal of his Britannic Majesty to carry it into effect. HE PERSISTS IN THAT EXPECTATION and in the opinion that there has been given no explanation that is adequate, either as to the matter, or as to the mode.”

I dont know what others may think, but for myself, I should hold, that any man, having ever so good a right to an apology from another, who should demand it of him in such a style as this, would thereby forfeit his right altogether ; and if he escaped without something like a lesson for his arrogance, he might think himself well off. I should understand that a person making use of such language on such an occasion, did not desire an apology ; and that his only object must be, to avoid coming to any explanation, at all, but to keep the quarrel open.

Having thus shown the lofty and unapproachable ground, taken by the administration, it seems not altogether amiss to revert to

the transaction itself, and see on what foundations their high pretensions rest. He who persists in claiming more than he has a right to, justly exposes his title to be critically questioned.

A curious Letter.

This letter is extracted from the *Public Advertiser* of the 21st of December. I only ask, as I introduce it, that nobody will permit himself to conjecture, while he reads, that it is from the renowned Secretary Smith himself.

“ WASHINGTON, December 21st, 1809.

“ Give yourself no concern about the pieces in the *Evening Post*. They tend invariably to produce the most salutary effects ; so deeply impressed am I with this persuasion, that I hope the writer will go on, labouring in his vocation. Every friend to the Administration ought, in my opinion, to encourage him ; his pieces breathe an anti-American spirit, which Americans will not fail properly to appreciate.

“ At this time he is ignorant of the true spirit of the American people ; he thinks them dastardly enough to submit to the grossest insults. He is alike ignorant of their true character as a people of discernment ; for he has the vanity to believe that his sophistry will completely delude them ; he thinks them so silly as not to be able to perceive that he is advocating, not the cause of his country, but that of its foe—I may be wrong in one particular, for he may be advocating the cause of his country, but that country is not America. Willingly would I persuade myself that the writer is not an American—But why are such pieces admitted into an American press ? A solution of this question would excite unpleasant and indignant feelings—I forbear the inquiry.

“ That the Secretary of State is utterly incapable of the conduct ascribed to him by this licentious writer, every one personally known to him would readily admit. An acquaintance of many years with him has enabled me to form an accurate judgment as to his character, and it is the perfect conviction of my mind that there lives not a man who is his superior in purity of virtue or nobleness of spirit. No man of equal rank, unshielded by privilege, dares to question his probity. This is the man whose word this writer would persuade us to discredit upon the assertions of a foreigner, whose interest is not with us, but against us—whose bounden duty it was to endeavour to gain every advantage of us in the adjustment of points, involving the interest of two distinct and independent nations : The United States represented by Mr. Smith, Great Britain by Mr. Jackson. And will the people of the United States believe the agent of the foreign country in preference to their own ? No ?—their patriotism, their good sense, their pride will forbid the admission of an idea so degrading !

“ You want to know what Mr. Smith thinks of these pieces. He would indeed, be unfit for the station he holds, if he suffered himself to pay any serious attention to such libellous attacks.”

REMARKS.

I have already barred the conjecture that the above is written by the great Secretary of State, himself ; and yet somehow, I cannot resist the fancy, that it is. One thing is certain : that that gentleman has honoured these numbers with a particular share of his very “ serious attention,” notwithstanding this denial of it ; and he has made them the subject of his letters to certain correspondents in this city. He has done me the honour to ascribe them to the pen of Mr. Jackson himself. This fact I happen to know.—One of these correspondents, it would seem, does not hold them in such cheap estimation as is here pretended ; for he writes to Washington to express his serious apprehension of the consequences of such a public exposure of the Administration ; and wishes, moreover, to know, if Mr. Smith does not feel some apprehension too ? He, however, is consoled by the assurance that he need “ give himself no concern about the pieces in the *Evening Post*,” and that the Secretary would be very unfit for a Secretary, if he suffered himself to give them any attention :

The Arrangement itself.

Mr. Smith's letter, as we have seen, demanded of Mr. Jackson, in a positive style, that he should begin his mission, by a formal, official, and satisfactory explanation, in writing, of the reasons which his Britannic Majesty had to offer for disavowing Mr. Erskine's arrangement. This demand, we have also seen, has been persisted in, again and again, to the very last, and always in a style the most peremptory, notwithstanding the explanation had been no less than three times given. After all his endeavours to afford satisfaction, Mr. Jackson is again informed that the President *still persists* in expecting it; declaring that every explanation, yet given, was inadequate both in matter and mode. This very naturally leads to the question, what was the explanation, after all, to which the President was really and truly entitled;—that thus, he should persist forever in his demands and expectations, which nothing, it appears, could possibly satisfy? And,

all which is duly published, for the encouragement of every good, staunch friend to the cause.

As to the "*inadmissible insinuation*" which it contains, that Mr. Robert Smith would vindicate his honour in a suitable manner, against my attacks upon it, were it not for my being his inferior in point of *rank*—I confess I hardly know how to receive that. "No man (says Mr. Smith) of *equal rank*, *unshielded by privilege*, dares question his *probity*." *Equal rank*! And what is *rank* in a republic?—Does the house of Smith (I don't mean the *firm* of Smith and Buchanan) already dream of *Stars and Garters*?—Mr. Smith, I admit, is uncle, by marriage, to Miss Patterson, lately created by the French Emperor, *Dutchess of Baltimore*, and great uncle to the *young Napoleon*, Prince of the American empire. But still I suspect the American people are hardly yet prepared to acknowledge the *rank and privilege* not claimed, by Mr. Smith, but thus unceremoniously taken. This Mr. Smith, if we are to believe his history, as given us in a higher respectable print, was formerly an obscure attorney at the Baltimore bar: His sign might, not unappropriately, have been copied from that of a London barber, *bleeder and tooth-drawer*—"Shave for a penny," for it is sufficiently known that he earned his living, and at last acquired a fortune, rather as a Jew-broker than lawyer; and was allowed to be the most *knowing one* at *shaving* a note to the tune of 3 per cent. a month, in all the place. At length he got, God knows how, to be our Secretary of State forsooth, and ever and anon the *Jackdaw shines forth in borrowed plumage*.

But if he is indebted to Mr. Madison's pen, he is not indebted to his eye-sight; for Mr. Madison, will hardly, I fancy, pretend to such keen and penetrating powers of vision as the Secretary, who lately boasted at the levee, that "he looked right through Mr. Jackson at the first interview."

Does a writer venture to examine Mr. Secretary's public despatches for the benefit and information of the community, he is given to understand that if he was only of "*equal rank*" with his Grace, his Excellency would soon call him out upon the turf and put a leaden bullet into his body, notwithstanding the late mishap of one of the "*royal cousins*" in Congress. Since I now find, then,

that inquiry again, naturally leads us back to a consideration of the *arrangement* itself; in order that we may take a "view of the whole ground," and thus see what has been the President's own conduct, as well as that of his Britannic Majesty's minister, in this anomalous transaction: more especially as Mr. Smith talks so much and so loud of the "good faith" of the United States, and so much of the imposing "*solemnity* of this *arrangement*." A plain, but concise narrative of facts will be more conducive to the elucidation of truth, and leave the fairest impression on the reader's mind.

On the 22d of January last, Mr. Canning received a letter from Mr. Erskine, informing him that he had had a conversation with the leading members of the *new* administration, in which they had told him that they were ready to come to a complete and cordial understanding with Great Britain, by an adjustment of all differences between the two countries. The very next day Mr. Canning sat down and drew up for Mr. Erskine, a despatch, of which the following is a copy.

[Copy of a Despatch from Mr. Secretary Canning, to the Hon. D. M. Erskine; dated, Foreign Office, 23d January, 1809.

Sir—If there really exists in those individuals who are to have a leading share in the new Administration of the United States, that disposition to come to a complete and cordial understanding with Great Britain, of which you have received from them such positive assurances, in meeting that disposition, it would be useless and unprofitable to recur to a recapitulation of the causes from which the differences between the two governments have arisen, or of

that I may do so with safety, I shall proceed in these numbers till the subject shall be exhausted, and the true character of Mr. Smith and some others in place and power, shall be perfectly understood by the good people of this country; after which I propose, if still left in possession of life, to re-arrange, enlarge, revise, and correct them for a pamphlet.

I cannot quit this letter without taking notice of another insinuation it contains; to wit, that "*the writer of these numbers is not an American*." This is not the first time I have heard the same insinuation, and it is not difficult to comprehend the policy of this poor attempt to lessen the influence of papers they are unable to answer. I seize the occasion, however, to declare, that whoever intimates that they are written by any other than the editor, or imputes to me, that I am lending my name and press to either foreigner, or native, to give currency to sentiments that are not my own, is a base calumniator; whatever his *rank* or whatever his *privilege*. These numbers are written by an American:—Be their merits or demerits what they may, they are written by an American, and I trust breathe a true American spirit. They are written by one who first drew vital air in the country which he inhabits, and which he loves too sincerely and too honestly, to sit with folded arms, in silence and cold indifference, while he beholds it becoming the prey and the spoil of selfish, unprincipled rulers, who have not virtue enough to chuse between the hazard of its utter destruction, and their own miserable loss of power; between the everlasting extinction of its liberties and independence, and the loss of place which they so unworthily fill. The single object before me is to inform the great body of the people, and if I may either trust to the partial mention I find made of my labours by friends, or to the no less convincing proofs afforded by the angry menaces of adversaries, I hope, when I shall have finished, I may say with Othello, *I have done the State some service*.

the arguments already so often repeated in support of that system of retaliation to which his Majesty has unwillingly had recourse.

That system his Majesty must unquestionably continue to maintain, unless the object of it can be otherwise accomplished.

But, after the professions on the part of so many of the leading Ministers of the government of the United States, of a sincere desire to contribute to that object in a manner which should render the continuance of the system adopted by the British government, unnecessary, it is thought right that a fair opportunity should be afforded to the American government, to explain its meaning, and give proof of its sincerity,

The extension of the interdiction of the American harbours to the ships of war of France as well as of Great Britain, is, *as stated in my former despatch*, an acceptable symptom of a system of impartiality towards both belligerents; the first that has been publicly manifested by the American government.

The like extension of the Non-Importation Act to other belligerents is equally proper in this view. These measures remove those preliminary objections, which must otherwise have precluded any useful or amicable discussion.

In this state of things, it is possible for Great Britain *to entertain propositions*, which, while such manifest partiality was shown to her enemies, were not consistent either with her dignity or her interest.

From the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears :

1st. That the *American government is prepared*, in the event of his Majesty's consenting to withdraw the Orders in Council of January and November, 1807. to withdraw contemporaneously, on its part, the interdiction of its harbours to ships of war, and all Non-Intercourse and Non-Importation Acts, so far as respects Great Britain; leaving them in force with respect to France, and the powers which adopt or act under her decrees.

2dly. (What is of the utmost importance, as precluding a new source of misunderstanding, which might arise after the adjustment of the other questions,) That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemies' colonies, from which she was excluded during peace.

3d. Great Britain, for the purpose of securing the operations of the embargo, and of the *bona fide* intention of America, to prevent her citizens from trading with France, and the powers adopting or acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these powers: without which security for the observance of the embargo, the raising it nominally with respect to Great Britain, alone, would, in fact, raise it with respect to all the world.

On these conditions, his Majesty would consent to withdraw the Orders in Council of January and November, 1807, so far as respects America. As the first and second of these conditions *are the suggestions of the persons in authority in America to you*, and as Mr. Pinckney has recently (but the first time) expressed to me his opinion, that there will be no indisposition, on the part of his government, to the enforcement by the naval power of Great Britain of the regulations of America with respect to France, and the countries to which these regulations continue to apply, *but that his government was itself aware*, that without such enforcement those regulations must be altogether nugatory; I flatter myself that there will be no difficulty in obtaining a *distinct and official recognition* of these conditions from the American government.

For this purpose, you are at liberty to communicate this despatch *in extenso* to the American Secretary of State.

Upon receiving, through you, on the part of the American Government, a *distinct and official recognition* of the three conditions mentioned, his Majesty will lose no time in sending to America a Minister with full powers to consign them to a formal and regular treaty.

As, however, it is possible, that the delay, which must intervene, before the actual conclusion of a treaty, may appear to the American Government to de-

prive this arrangement of part of its benefits, I am to authorise you, if the American Government be desirous of acting upon the agreement, before it is reduced to a regular form, (either by the immediate repeal of the embargo, and the other acts in question, or by engaging to repeal them on a particular day) to assure the American Government of his Majesty's readiness to meet such a disposition in the manner best calculated to give it immediate effect.

Upon the receipt *here* of an official note, containing an *engagement* for the adoption, by the American Government, of the three conditions above specified, his Majesty will be prepared, on the faith of such engagement, either immediately (if the repeal shall have been immediate in America) or on any day specified by the American Government for that repeal, reciprocally to recal the Orders in Council, without waiting for the conclusion of the treaty; and you are authorised, *in the circumstances herein described*, to make such reciprocal engagement on his Majesty's behalf.

I am, &c.

GEORGE CANNING."

The above despatch, we see, after observing that his Majesty must unquestionably *continue* to maintain that system of retaliation upon France to which he had unwillingly had recourse, unless the object of the Orders in Council could be obtained some other way, proceeds to recapitulate Mr. Erskine's *report* of his conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith. From this report, Mr. Canning observes, it appears, that the American government had themselves suggested that they were willing to yield two points, as the price of being exempted from the Orders in Council; to which Mr. Canning adds a third point, as one that had been acceded to by Mr. Pinckney, the American Minister in London. He then informs him that on obtaining *these three conditions*, his Majesty would consent to withdraw the Orders in Council, and that upon receiving through him——what?——a treaty embracing them?—no—merely “a distinct and official *recognition* of the three mentioned conditions” “his Majesty would”——do what?——ratify and confirm an agreement containing them?—no—but would “lose no time in sending to America a formal, regular treaty,” there to be concluded. In order, however, to lose as little time as possible, Mr. Canning went on further to instruct Mr. Erskine, that, if our government were desirous of proceeding to *act* upon the agreement before it was reduced to regular form, to assure them of his Majesty's readiness to meet such disposition in the manner best calculated to give it immediate effect. And that upon receiving, *there, in London*, an official note containing an engagement by the American government to adopt the *three conditions*, his Majesty would be prepared, on the faith of such engagement, reciprocally to recal the Orders in Council, without waiting for the conclusion of the treaty. Such is the despatch which Mr. Erskine received from his government early in April, with express permission to submit it, the whole of it, to our government.

The First Condition.

That the conditions contained in the last mentioned despatch of Mr. Canning had their origin in this country, and were the voluntary suggestions of our own government, I proceed now to show. And for that purpose I begin by introducing the testimony of Mr. Erskine, their own witness, on whom they have called as such, and to whose testimony, consequently, they cannot object.

Mr. Erskine, it seems, was applied to by Mr. Smith, after they received a copy of the above despatch, August 9th, to explain whether he ever made the representations imputed to him in Mr. Canning's Despatch? And, in order to prepare the way for the answer, Mr. Smith takes care gravely to intimate to us, what great surprise was felt at the extraordinary pretensions set forth in this same despatch. To which Mr. Erskine answers, on the 14th of September, in a letter to Mr. Smith, and on the 15th, in a letter to Mr. Gallatin. To those letters, then, let us turn for the details of the conversations between himself and Mr. Madison, Mr. Smith, and Mr. Gallatin.

In the course of these conversations, Mr. Madison, Mr. Gallatin, and Mr. Smith, called the attention of Mr. Erskine to various arguments, tending to prove, not only, that the United States had used every effort, in the way of remonstrance, to persuade the French government, to withdraw its unjust restrictions upon neutral commerce, but that, had not the Orders in Council followed so soon after the French decrees—that is, had they not followed before it was sufficiently known whether or not the United States would acquiesce in the aggressions of France, they [the U. S.] might have had recourse to measures still stronger than remonstrance against this latter power.

Mr. Madison, Mr. Gallatin, and Mr. Smith proceeded further, and, after contending that the United States, in the existing circumstances, would be fully justified in using hostilities against either or both belligerents, they declared, that if either of them should relax, “the United States *would* at once *side with that power*, against the other which might continue its aggressions.” —They added, “that every opinion which they entertained respecting the best interests of their country, led them to wish, that a good understanding should take place with Great Britain.”

Mr. Erskine states, that, in listening to this language, “he understood, very distinctly, that it was intended to convey an opinion, as to what *ought to be* and *would be* the course pursued by the United States, in the event of the Orders in Council being “withdrawn.”

At a private interview with Mr. Gallatin alone, Mr. Erskine was informed, that, as to another point, viz: the *colonial trade*, he, Mr. Gallatin, "*knew* that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents in time of war, which trade was not allowed in time of peace, and to trust to the being hereafter permitted by the French to carry on such trade in time of peace, so as to entitle them to a continuance of it, at all future periods, in time of war."

Such is the relation of what passed as to two of the topics discussed in the conversations held between Mr. Madison, Mr. Smith, Mr. Gallatin and Mr. Erskine. The sentiments of the three former of these gentlemen, upon the *first* of these topics, were expressed to Mr. Erskine, "in order, that he," Mr. Erskine, "conceived, "might convey them to his government, so as to lead to a *reconsideration* by that government, of the proposition of the United States (previously made, as he says, and rejected) for obtaining a rescinding of the Orders in Council."

Mr. Erskine, accordingly, did convey to his government the sentiments thus expressed; and, in so conveying them, he clothed them in the language in which they are now cited. That these sentiments and this language were the sentiments and language of Mr. Madison, Mr. Smith and Mr. Gallatin, and were the sentiments and language which he conveyed to his government, and which he imputed and still imputes to those gentlemen, is expressly stated by himself, in his letters to Mr. Smith and Mr. Gallatin, above referred to.

These sentiments and this language, having fallen from Mr. Madison, Mr. Smith and Mr. Gallatin, in their official conversations with Mr. Erskine, and the same sentiments and language having been officially conveyed to Mr. Canning, it becomes a question for the reader's decision—Whether Mr. Canning, in giving to these sentiments, and this language, the necessary form of conditions, has carried these conditions beyond the letter of his original?

"The points embraced in Mr. Canning's first proposition," says Mr. Gallatin, in his letter of the 13th August ultimo, "formed the principal topics of our conversations, relative to the Orders in Council. Yet, in the manner in which that proposition is expressed, it *goes further* than had been suggested by the members of the Administration."

The manner, in which the proposition is expressed, is this:

"1st. That the American government is prepared, in the event of his Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw contemporaneously, on its part, the interdiction of its harbours to ships of war and all non-intercourse and non-importation acts, so far as respects Great Britain; *leaving them in force with respect to France and the powers which adopt, or act under her decrees.*"

The objection to this manner of expression, consists in the introduction of the second member of the proposition, as a *condition* of the arrangement: "That state of things," says Mr. Gallatin to Mr. Erskine, "was to result from our own laws, known or *anticipated* by your government. It was not proposed by us, that the continuance of the non-intercourse with France should be made a *condition* of that arrangement."

Thus, one step is yielded to us; but, for the second, we must struggle. Mr. Madison, Mr. Smith and Mr. Gallatin are the undoubted *authors* of the first part of this first proposition; but, to whom are we to ascribe the authorship of the second? That is, on what authority did Mr. Canning assume, "That the American government was prepared, in withdrawing its interdictions, &c. as it should respect Great Britain, to leave them in force with respect to France, and the powers which adopt, or act under her decrees."

Let us recur to Mr. Erskine. Mr. Erskine had been at pains to possess the mind of Mr. Canning, that there *really* existed in the minds of the *leading* members of the government of the United States, a disposition to cultivate a friendship with Great-Britain; and he had expressly told him, that Mr. Madison, in the presence, and with the concurrence of Mr. Smith, and Mr. Gallatin, had declared, "that if either of the belligerents should relax in their restrictions upon neutral commerce, the United States *would, at once, side with that power* against the other, which continued its aggressions;" and Mr. Erskine "understood, very distinctly, that the observations of Mr. Madison were *intended* to convey an opinion as to what ought and *would* be the course pursued by the United States, in the event of the Orders in Council being withdrawn."

Now, did Mr. Canning falsify, or did he strain, the sentiments or the language of the *leading* members of government of this country, when he ventured to frame upon them this proposition, "That the American government *is prepared*, in the event, &c. to leave the interdictions in force with respect to France, and the powers which adopt or act under her decrees?" Mr. Canning is told, that, in such an event, the United States *would, at once, TAKE THE SIDE* of Great Britain; and what was it expected that he should understand by this language?

What was meant by the phrase, *take the side*? Did it allude simply to sentiment?—Did it promise, to the relaxing belligerent, only the best wishes of the United States?—Or, had it, or had it not, a reference to some course of policy, to be adopted, not merely in behalf of the United States, but in behalf of the relaxing belligerent? The phrase implies, not that, in the event contemplated, the United States would be placed, *by that event*, on the side of such belligerent, but, that, in such case, they would *be induced to take* the side of the belligerent;—to renounce their neutrality; to

become parties in the *war*; and to treat the restricting belligerent as a common enemy.

Well, then, in what practical form (for to practice, in spite of Mr. Madison, Mr. Smith and Mr. Gallatin—to practice we must come at last) in what practical form were the United States to *take the side* of the relaxing belligerent? Could it, under the circumstances, be any thing but a continuance of the interdictions against the other “which might continue its aggressions;” if not in the shape of a *law*, at least in the shape of a *treaty*.

Mr. Jefferson, on the 8th of November, 1808, sent a message to both houses of Congress, in which are these words: “To Great Britain, whose power on the ocean is so ascendent, it was deemed not inconsistent with that condition to *state explicitly*, that on rescinding her Orders in relation to the United States, their trade would be opened with her, *and remain shut to her enemy, in case of his failure to rescind his decrees also.*”

But, by some one of those *accidents* to which all human affairs are liable, this explicit offer, this *condition*, upon which the good President judged it to be no more than reasonable that the British Orders should be rescinded, never was proffered, notwithstanding the above solemn declaration.

The instruction, on this subject, contained in Mr. Madison’s despatch to Mr. Pinckney, of April 30th, 1808, is thus expressed:

“In order to entitle the British government to a discontinuance of the embargo, as it applies to Great Britain, it is evident that all its decrees, as well those of January, 1807, as of November, 1807, ought to be rescinded, as they apply to the United States. Should the British government take this course, you may *authorise an expectation* that the President will within a reasonable time, *give effect to the authority vested in him on the subject of the embargo laws.*”

The language of the Delphic oracle was never more happily ambiguous and obscure. But besides, Mr. Pinckney had before this had his cue, to take care, whatever he might say or do, that he *committed his government to nothing*. And if we look at this extract again, we shall see that it contains not a syllable signifying that the trade of the United States should remain shut to her [Great Britain’s] enemy, in case of his failure to rescind his decrees also.

From the words of Mr. Jefferson, in his *message*, as above cited, we collect, that at least he thought it reasonable that a *condition* similar to that adopted by Mr. Canning, and sent to him him by Mr. Erskine, should make part of an agreement between the two countries.

And that Mr. Erskine did so conceive the intention of Messrs. Madison, Smith and Gallatin, also, he tells us in the same letter to Mr. Smith, to which we have already referred. It is a fair conclusion from that passage in which he remarks on the connection, in point of time, between the failure of Mr. Pinckney’s proposal in London, and the observations which were offered to him [Mr. Erskine] by the Secretary of state:

"These observations, sir, I beg leave to remark, were made to me by Mr. Madison, about a month after the intelligence had been received in this country of the rejection by his Majesty's government of the proposition made through Mr. Pinckney by the President for the *removal of the embargo as respected Great Britain*, upon condition that the Orders in Council should be withdrawn as respected the United States; and his sentiments were, as I conceived, expressed to me, in order that I might convey them to his Majesty's government, so as to lead to a re-consideration of the proposition *above mentioned*, with a view to the adjustment of the differences upon that subject between the respective countries."

But, why were these observations to lead to a *re-consideration*, by the British government, of the first proposition made through Mr. Pinckney? Did they go no farther than to solicit a *re-consideration* of the *same* proposition? They did.—It was not the *same* proposition. It was Mr. Pinckney's proposition enlarged, and re-modified; and *therefore* to be re-considered. It was the proposition in the form expressed by Mr. Jefferson, in his November message—in the form in which, according to that message, it had been already proffered to the British government—in the form, however, in which it had never in fact been proffered—but in which Mr. Madison, Mr. Smith and Mr. Gallatin, in their conversations with Mr. Erskine, at length consented that it should be proffered.

Another step is gained. We have found out the *authors* of the whole first proposition—of the whole first proposition, *verbatim et literatim*, as it stands in Mr. Canning's despatch. Mr. Jefferson is the author, Mr. Madison, Mr. Smith and Mr. Gallatin propose it, Mr. Erskine transmits it, and Mr. Canning only adopts it. Here follows, first, the original, and next the copy:

(ORIGINAL.)

"To Great Britain, whose power on the ocean is so ascendent, it was deemed not inconsistent with that condition, to *state explicitly*, that, on rescinding her orders in relation to the United States, *their trade would be opened with her, and remain shut to her enemy, in case of his failure to rescind his decrees also.*"

Message.

(COPY.)

"1st. That the American government is prepared, in the event of his Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw contemporaneously on its part, the interdiction of its harbours to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain; *leaving them in force with respect to France and the powers which adopt, or act under her decrees.*"

Despatch.

This, then, is the history of Mr. Canning's despatch, as to the first proposition. Mr. Jefferson drew up the terms of that proposition in his message; Mr. Madison, Mr. Smith and Mr. Gallatin, proffered it to Mr. Erskine in conversations; Mr. Erskine conveyed it to Mr. Canning, and Mr. Canning *adopted* it, and *copied* it into his despatch.—If there be one reader who discovers, that in "the manner in which it is expressed by Mr. Canning, it goes further than had been suggested by the members

“ of the Administration,” let him lay his hand upon his heart, and say so.—For those readers who do not, let them inquire of Mr. Gallatin, for the grounds upon which that gentleman has had the courage to give such an assertion to the world.

No. 16.

Second Condition.

That the *first* condition mentioned in Mr. Canning’s despatch originated with our own government, will never be hereafter disputed by any man who attends to the evidence in the last number, adduced in support of that fact. How was it as to the second condition, equally represented by Mr. Erskine, as stated in the same despatch, to have originated from the same source? For satisfaction on this point, we must, for the present, turn to Mr. Erskine’s correspondence with Mr. Gallatin, in August last.

This correspondence opens with a letter from the Secretary of the Treasury, in which he begins with saying, in a style rather abrupt, “ *I do not believe*, that in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever misunderstood one another.” After a few observations on the first conditions, he comes to the second, respecting the colonial trade ; as to which he says, and he has the assurance to say, that when he formerly told Mr. Erskine that “he *knew* that the United States intended to abandon the attempt to carry on a trade with the colonies of belligerents in time of war, which was not allowed in time of peace,” (a fact not denied by him) he meant “their right to the *direct* trade only ; that is to say, *the trade carried directly from the belligerent colonies to the belligerents in Europe*.” To this Mr. Erskine answers, (and probably both letters were written by the same pen) that he had great satisfaction in assuring him, (Gallatin) that there appeared to be no misunderstanding between them, on the point, for he certainly had understood Mr. Gallatin to mean “ the trade directly from belligent colonies to the belligerents in Europe, &c.” quoting, very complaisantly, Mr. Gallatin’s own words.

Whether all this proceeded from an utter ignorance in Mr. Erskine of the merits of a question that has, for so many years, been the subject of public discussion in both countries, and on which there have been so many solemn adjudications in the English courts of admiralty, I cannot determine. If we allow the man that unimpeachable integrity, which is so strenuously asserted in the administration prints, where can we find language to express our astonishment at his weakness? In any of the transactions of ordinary life, I can easily suppose, that an abler man than Mr.

Erskine might be duped by the wily Genevan ; but in a case of such public notariety, on a national question of such momentous consequence, and so little difficult to be understood, I confess such cullability excites my unfeigned amazement.

As this condition has now, by the course of events, dwindled into comparative insignificance, I shall not detain the reader by laboured arguments to show that the colonial trade in question, was not the *direct* trade, as asserted by Mr. Gallatin, and yielded to by Mr. Erskine : especially as it is hardly less singular than fortunate that both of those persons, when speaking of it, should have furnished conclusive arguments against their own pretended constructions.

Mr. Gallatin, by way of supporting his construction of his own meaning, refers expressly to the principles recognised in a former correspondence between Lord Hawkesbury and Mr. King, on the subject of the colonial trade, “ as a general basis agreed on.”—But the question then in dispute, briefly and plainly stated, was this, viz. whether an American vessel, by coming first from a belligerent colony, to a port in the United States, and then, a second time, setting out from such port for the mother country, was to be considered as engaged in one or in two voyages ? in other words ; whether, after leaving the in United States for the mother country, it was to be considered as only a single though circuitous voyage from the colony, home ; or whether it was, from the time of leaving such last mentioned place, to be considered as a distinct voyage, from that first made from the colony to the United States ?—(And so, *è converso*, from the mother country to the colony.) If, in the first point of view, the vessel was, by the belligerent construction, liable to capture ; if, in the second, not :—liable to capture, because she was considered as engaged in a *direct trade*, that is, *a trade direct, between the colony and the mother country*. The question, whether such direct trade was, or was not, allowable, so far from being considered, at that time, as the disputable point, and then to be adjusted, was left untouched.—The agreement between the two ministers, relating, *solely*, to fixing a criterion as to what should be considered as evidence decisive of the character of the second voyage : and which was fixed accordingly.—In conclusion, I cannot help remarking, that Mr. Gallatin, in his letter to Mr. Erskine, boasts that the subject of the colonial trade was one “ *to which he had paid particular attention*, and on which his opinion had never varied.”

As to Mr. Erskine, he is in no better condition than his friend Mr. Gallatin. In his letter to Mr. Smith, on this point, he alleges that the reason *why* he could only have understood Mr. Gallatin, as speaking about the *direct* trade, was “ *because the right to such trade had been the point in dispute*” [between the countries].—Not at all.—If Mr. Erskine had only turned to Robertson’s Admiralty Reports, and read any one of the numerous cases there recorded, he would have seen, that of all the instances

that came before Sir William Scott, the right to the *direct* trade, was never the point in dispute in any single one.

But before I quit this topic, I cannot refrain from just noticing the reason alleged by Mr. Gallatin why *he knew* the United States would abandon the *direct* trade in time of war; it was, he says, because we meant to trust to our being permitted by the French to *carry on such trade in time of peace*—thus yielding the principle, but evading its operation. But without puzzling Mr. Gallatin to reconcile this with the proposition itself, which confines the abandonment to the present war, I will merely ask him if he will have the goodness to inform the world, if it was ever yet known, that a mother country permitted, in time of peace, a foreign nation to enter into competition with her in the *direct* trade to her own colonies? If so, he will add to the obligation, by showing that in such case, her colonies did not cease to be of any value to her. Is Mr. Gallatin, the celebrated statesman, so ignorant of a work on national law, and national policy, to be found in every library? Does he not know, that *Montesquieu* recognises it as a principle universally established, that a trade between the parent country and her colonies, is, of right, a monopoly to the parent? As Mr. Gallatin was not in our country previous to our revolution, nor had then ever seen our shores, I shall not reproach him with being ignorant that it was never even made a question between these States, when colonies, and Great Britain, whether the right to the trade, and regulation of it, belonged to her alone, as the parent country, to the exclusion of foreigners.

But I quit the subject. The evasion is too palpable, as well as too pitiful, to impose upon the meanest understanding. In spite of all his contortions, Mr. Gallatin cannot escape from being justly considered the legitimate father of the *second* condition, as recited in Mr. Canning's despatch; and, as repeated by Mr. Pinckney in his letter of May 23d, viz. "that our government would agree to abandon, during the present war, *all* trade with enemies colonies, from which we were excluded in time of peace."

No. 17.

Third Condition.

The third condition is stated by Mr. Canning to have been acquiesced in by Mr. Pinckney in London, and therefore he could not but presume it was acceptable to his government. Doubtless, then, Mr. Pinckney had previously received despatches from his government, authorising him to signify such acquiescence. Mr. Canning specifies the particular observation made by Pinckney as the reason for such acquiescence, viz. "that the American government was itself aware, that without an enforcement by the

naval power of Great Britain, of the regulations of America with respect to France, those regulations must be altogether nugatory." That we might know whether Mr. Canning understood Mr. Pinckney correctly in all this, or totally misunderstood him, Mr. Pinckney's letters on the subject have been called for by a resolution of the lower house ; but the good President has taken care to order the copying clerk to stop at the very passage in his first letter, which contains the object of their enquiry ; to gut it of that, and then proceed with the rest, as if it were entire. I will assign my proof in support of this charge.

In Mr. Pinckney's letter of the 6th of June, Mr. Pinckney informs Mr. Smith, that in a conversation between Mr. Canning and himself, respecting a stipulation for admitting the agency of the British navy in enforcing the embargo laws, (which had then been rejected by our government) Mr. Canning said, that when Mr. Pinckney told him in the conversation held on the 22d of January, that "the United States would *side with* the power revoking its edicts, against the power persevering," he considered this as comprehending a suggestion to the amount ascribed to Mr. Pinckney, in the January despatch. Mr. Pinckney goes on thus :

"It will, I am sure, *occur to you*, as the fact is, that the little which I may have thrown out upon that occasion did not look to the admission of Mr. Canning's object into any *stipulation* between the two countries, and that I viewed it only as a *consequence that might, and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last.*"

How satisfactory would it be, if we could only obtain a glance of what Mr. Pinckney actually did say in that conversation ? We therefore eagerly turn back to his letter of January, detailing the conversation, in search of it. But we find it not. We find the space it ought to occupy, and that it must have occupied ; and that is all we find. Take the following extract as introductory to what we have in vain been hunting after.

"In the course of the conversation, Mr. Canning proposed several questions relative to our late proposal : the principal were the two following.

1. In case they should wish, either through me or through Mr. Erskine, to meet us upon the basis of *our late overture*, in what way was the effectual operation of our embargo as to France, &c. after it should be taken off as to Great Britain, *to be secured* ? It was evident, he said, that if we should do no more than refuse clearances for the ports of France, &c. or prohibit, under penalties, voyages to such ports, the effect which my letter of the 23d of August, and my published instructions, proposed to have in view, would not be produced ; for that vessels, although cleared for British ports, might, when once out, go to France instead of coming here ; that this would, in fact, be so, (whatever the penalties which the American laws might denounce against offenders,) could not, be imagined, be doubted ; and he, therefore, presumed, that the government of the United States would not, after it had itself declared a commerce with France, &c. illegal, and its citizens, who should engage in it, delinquents ; and after having given to Great Britain *by compact* an interest in the strict observation of the prohibition, complain, if the *naval force* of this country should assist in preventing such a commerce "

The letter, as given us, takes not the least notice of this first proposal, but goes right on to the statement of Mr. Canning's second question, viz. "2d. He asked whether there would be any objection to making the repeal of the British Orders, &c." But what Mr. Pinckney's answer was to the first proposal, no where appears.—Not a lisp. That he did "throw out," at least, "*a little*" upon that occasion, is stated, as we have seen, in his letter of June 6th; nay, we have seen that he went so far as to allow that the interference of the British navy in enforcing the embargo laws against France, tho' not admitted as a stipulation, would necessarily follow "as a consequence of an arrangement with England;" and, as he appeals to Mr. Smith himself for the truth of the representation, ("*I am sure it will occur to you,*" are his words,) it is clear, that Mr. Smith himself must have been previously made acquainted with that representation. But whatever it was, it has been boldly suppressed; and we are left to our suspicions.

That, however, the honour of this condition ought, in justice, to be divided with Mr. Smith, I shall now show.

It has not escaped my recollection, that in Mr. Smith's letter to Mr. Jackson, of the 19th of October, he treats this condition with great loftiness of spirit and high disdain. I will give his own words.

"The other demand, [the *third condition*] could still less have been apprehended. Besides the *inevitable and incalculable abuses* incident to such a licence to foreign cruisers, the stipulation would touch one of those *vital principles of sovereignty*, which no nation ought to have been expected to impair.—For, where would be the difference in principle between authorising a foreign government to *execute*, and authorising it to *make laws* for us?"

I will interpose as few words as possible between these grand sentiments, and the following quotation from the same man, when treating of this same condition, with Mr. Erskine. We get it from Mr. Erskine himself, Mr. Smith's own witness.

"The third condition, (says he to Mr. Smith, in his letter of August 14th,) you certainly very distinctly informed me, could not be *recognised* by the President; but you added, what had *great weight in my mind*, that you did not see why any great importance should be attached to such a recognition; BECAUSE, it would be impossible that a citizen of the United States could prefer a complaint to his government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country."

Alas! the wing that but erst took its flight above the stars, and "bid the sun good night," suddenly melts, and down drops our luckless Icarus into a mud puddle!

"Tell your government, good Mr. Erskine, that we have no sort of objection that they should do that, in fact, which you wish us to stipulate to permit. We cannot stipulate; that would make us unpopular; but you may safely order your cruisers to capture every American vessel sailing in contravention of our Non-Intercourse Act, either to or from France, or any of her dependen-

cies. For although, as I have just told you, the President cannot *formally* acknowledge your right to do this, yet that is of no consequence ; “ I do not see why any great importance should be attached to it,” because if you capture our vessels, to ever so great an amount, not a man of the captured will ever dare to complain to the government, and thus it comes to the same thing : you gain and they lose. A *stipulation*, I repeat again, cannot be given, because “ it would touch one of the vital principles of sovereignty.” But capture what you please ; if it is a wrong done to our citizens, you are perfectly safe, for it is the case of a wrong without a right to a remedy, and without even the privilege of complaint.”

And now, what has become of those lofty ideas, that delicate sense of honour which, but lately, so eminently distinguished an American Secretary of State !—

To conclude : The truth of the recital in Mr. Canning’s despatch, that the *three* conditions originated with persons having a leading share in our own government, has been established by the testimony of their own witness, and by their own confessions.—The first, it has been proved, originated with Mr. Madison, Mr. Smith, and Mr. Gallatin ; the second with Mr. Gallatin alone, and the third is divided between Mr. Pinckney and Mr. Smith.

Well ; these three conditions were offered Mr. Smith by Mr. Erskine, as the basis of an arrangement ; but by this time, the views and dispositions of the government had undergone a change.—Mr. Smith would not receive any one of them. What was done ? Mr. Erskine tells us that Mr. Smith *substituted* other conditions, materially different, coupling them with verbal *assurances*, that in reality it would amount to the same thing ; all in good time. The President would doubtless do his part, and Congress would do their part. This fact of the substitution is put out of controversy by Mr. Smith’s own confession, in his letter to Mr. Jackson, of the 19th of October, in the following words :

“ On finding his first proposals, [Mr. Erskine’s first proposals,] unsuccessful, the more reasonable terms comprised in the arrangement respecting the Orders in Council were *adopted*.”

To *adopt* is one thing, to *propose* another.—One man *proposes*, another *adopts*. And when the proposer offers a different proposition, in lieu of what the other had first offered him, he is correctly said to *substitute* his proposition for the other. By the only legitimate construction of the above sentence, Mr. Erskine *adopted*, and consequently, Mr. Smith *proposed* “ the terms in the arrangement ;” which, being different from those first offered by the former, it perfectly justified him in saying that they were “ *substituted* by Mr. Smith.” Thus we have seen by whom the original conditions were suggested, by whom they were rejected, and by whom the conditions agreed on were substituted.—The honour of the whole belongs exclusively to the American government.—And now *let them to dinner with what appetite they may* :

General Remarks, introductory to interesting Queries.

In undertaking to show, as I have done, in the three preceding numbers that the three conditions in Mr. Canning's despatch, however objectionable or otherwise, originated with persons having "a leading share in the American Administration," I have not done so because I considered it as a question now open, whether, so far as regards either Mr. Canning, or the parties to the arrangement, such was or was not the fact?—Mr. Canning, as we have seen, in order that there should be no possible mistake, copied Mr. Erskine's statement of the conversation he had had with Mr. Madison, Mr. Smith, and Mr. Gallatin, and sent it back to Mr. Erskine to be corrected, if incorrect, or if not incorrect, then to be again submitted to those three gentlemen, for their recognition; if they should still be inclined to abide by it, to obtain their answers to that effect, distinctly expressed; if they should not, then to consider what had formerly passed between them as nothing.—Now then, in order to disembarass the question of every thing not necessarily connected with it, it becomes proper to observe, that, whether these conditions were admissible or inadmissible, is no longer of any sort of moment, as respects any of the parties concerned in the transaction, which we are considering.—The only question, at this time, before us, is, what in reality were they? We have seen what they were. Mr. Erskine received them. He went with them to Mr. Smith. And we have Mr. Smith's distinct confession, that Mr. Erskine did *submit* to him, did *present* to him, for his consideration the three conditions. We have also his confession that Mr. Erskine did *adopt* other considerations, *substituted* by him, as Mr. Erskine declares, and he himself impliedly admits; which other conditions, though in "direct contradiction to Mr. Erskine's instructions," made the basis of the arrangement. Thus it appears, that Mr. Erskine not only received, but he *acted* upon Mr. Canning's despatch; a despatch, on which he relied for his powers to go forward a single step. This despatch, founded upon his own letters, and to which he might recur, if he had any doubts of the fidelity of the recital it contained, he might *then* have questioned: it was perfectly competent for him then to do so.—He scrupled not its accuracy. On the contrary, he admitted it to be correct, *by the very fact of acting upon it*. And can it be permitted to Mr. Erskine, afterwards, to attempt to show it was not correct? Can it be permitted to him, in complaisance to Mr. Madison, or to Mr. Smith, or Mr. Gallatin, to attempt to explain away any material part of their conversations, which it contains? No. Certainly, it cannot. He is *estopped*, to speak technically, *by his own act*.

How far it was strictly proper in those gentlemen, on their part, to attempt, in August, to induce this weak young man to explain away conversations on which he and they had *acted*, and concluded, what they themselves call, a *solemn* arrangement, in the April preceding, I shall not presume to decide, but that it was neither proper nor allowable in Mr. Erskine to attempt to make any such explanation, must be evident to the meanest understanding.

The *three conditions* are stated, to Mr. Erskine in the following terms :

“ From the report of your conversations with Mr. Madison, Mr. Gallatin and Mr. Smith it appears :—

1st. That the American government is prepared, in the event of his Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw contemporaneously on his part, the interdiction of its harbours to ships of war, and all Non-Intercourse and Non-Importation Acts, so far as respects Great Britain, leaving them in force with respect to France and the powers which adopt or act under her decrees.

2dly. (What is of the utmost importance, as precluding a new source of misunderstanding, which might arise after the adjustment of the other questions,) That America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemies' colonies, from which she was excluded during peace.

3d. Great Britain, for the purpose of securing the operations of the embargo, and of the *bona fide* intention of America, to prevent her citizens from trading with France, and the powers adopting or acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these powers : without which security for the observance of the embargo, the raising it nominally with respect to Great Britain, alone, would, in fact, raise it with respect to all the world.

On these conditions, his Majesty would consent to withdraw the Orders in Council, of January and November, 1807, so far as respects America.”

Such was the despatch, and such were the instructions ; such alone were the instructions to which Mr. Erskine refers in his first letter of April 17, to Mr. Smith, and “ *conformably to which*” he told him he was ready to proceed to conclude an arrangement.

Such was the extent, and such the limitation of the powers, intrusted to Mr. Erskine ; and that they would not authorise an agreement in direct contradiction of them, we need neither appeal to law books nor to common sense, for we have Mr. Smith's own positive admission, and let it not be forgotten, that “ if it had been *known* that these propositions were the only ones, on which Mr. Erskine was authorised to make an arrangement, it would not have been made :” and even the Message allows, that an arrangement, *so* concluded, would not have been binding. Such, I repeat was the extent and limitation of the powers given by his Britannic Majesty to his agent and representative in this country. The next questions in order are, and they are by no means uninteresting ones, what was the nature and limitation of the powers of Mr. Madison, as *Agent* for the American government, as vested

in him by the act of Congress of March 1, by virtue of which he acted, and not as Executive, as to *one* part of the arrangement, viz. *the Orders in Council*; and what was the nature and limitation of his powers, as President of the United States, acting under the Constitution, by virtue of which, he acted, and not as the agent of Congress, as to another part of the arrangement, viz. *the affair of the Chesapeake*?

No. 16.

What were Mr. Madison's Powers?

In our last we became acquainted with the nature, extent and limitation of the powers of Mr. Erskine: let us now turn our attention to those of Mr. Madison.

It will appear, that in this transaction, Mr. Madison has acted in the double capacity of Executive of the United States, and of an agent of Congress under the Non-intercourse law. We must carefully distinguish between the two capacities, and note well when Mr. Madison acts in virtue of one, and when in virtue of the other; although I much deceive myself, if I do not show beyond cavil or contradiction, that in both capacities, he has exceeded the authority entrusted to him:—that, in the former he has been guilty of an usurpation of power, in direct violation of the constitution: that, in the latter he has disregarded his instructions; of course, that, his acts were void and not binding in either capacity. I proceed to these two topics in their order:

The point, first to be considered is his powers in the settlement of the affair of the Chesapeake by treaty. Here Mr. Madison must have acted in virtue of the executive powers conferred upon him by the constitution. He could act in virtue of no other. No act of Congress had been passed relating to this subject; and if there had, it would have been void, since the executive power can neither be enlarged nor diminished by an act of Congress; any more than the legislative or judiciary powers can be enlarged or diminished by the executive. The constitution has carefully and distinctly distributed and established among the three coordinate branches of the government, the different powers belonging to each, and no one can entrench on either of the others, short of *usurpation*. In this distribution, the treaty-making power is conferred on the Executive “*by and with the advice and consent of the Senate.*”

The powers of initiating and conducting all foreign negotiations, is, by the constitution, exclusively confided to the President; but no treaty can become valid and binding, upon the United States, before it has received the sanction of two thirds of the Senate. This power of originating negotiations and making treat-

ties, being thus vested, can neither be enlarged nor diminished, as has been observed in the preceding paragraph, nor made to take a different direction, nor in any shape, altered or affected by, an act of Congress—As to what is or is not a treaty, there can be no doubt. Every compact between the United States and a foreign power, in which one party does, or grants, or stipulates to do or to grant something, in consideration of the other party's doing or granting, or stipulating to do or to grant some other thing, is, after such compact shall have been approved by the President, and sanctioned by the Senate, a treaty: and every treaty is the supreme law of the land. No engagement or convention with a foreign power, is binding upon the United States, unless it be initiated, and concluded according to the above stated provisions of the Constitution: no other branch or department of the government, than the executive, "*by and with the advice of the Senate,*" being competent to order, authorise or conclude such engagement or convention. The safeguard of the senatorial sanction, as far as regards treaties, is the grand feature in our constitution, which discriminates it from the monarchies of Europe; where the making and concluding treaties is vested in the King alone. Every attempt, therefore, on the part of our executive, to make compacts or agreements with a foreign power, however disguised under the new name of *arrangement*, or any other name, thereby freeing himself from the salutary restraints imposed upon him, cannot be too scrupulously watched, nor too firmly opposed: not only, on account of its monarchical tendency, but as a dangerous violation of the constitution, and an alarming usurpation of power.

Was then the settlement of the affair of the Chesapeake, a *treaty*? If it was, important consequences follow, and important reflections present themselves.

By turning to the settlement itself, it appears, that on the part of GREAT BRITAIN, in addition to the disavowal and recal of Admiral Berkely, SHE AGREED, *first*, that she would restore the men forcibly taken out of the frigate. *Secondly*, that she would make provision for the families of the sufferers; in other words, pay a sum of money or an annuity to the United States, to be applied to the use pointed out. On the part of the UNITED STATES, WE AGREED, to accept the terms, and the President authorised the Secretary of State, the proper organ of the executive, to declare it, and say he would consider the same, with the engagement contained in Mr. Erskine's note when fulfilled, *as a satisfaction* for the insult and injury complained of, and relinquish all further claims. Here then, was a compact in the strictest sense of the word: a convention between the two countries, and, if the two agents had been empowered to make it, the national faith of both countries would have been pledged for its performance, as much as in case of treaties of peace, treaties of alliance, or treaties of commerce. Nor can it be discriminated from them. I

now, then, call on the friends of Administration, to explain, if they can, to the people of the United States, on what pretext it was, that Mr. Madison dared to make and conclude a convention with a foreign power, *without first submitting it to the Senate, and obtaining the advice and consent of that body*; in defect of which, his act was as utterly invalid as if it had been made by the Speaker of the House of Representatives?

But what could have been Mr. Madison's motives for this infringement upon so sacred a provision of the constitution? No man incurs the responsibility of deep guilt without powerful motives. What then were Mr. Madison's motives for this daring violation of the constitution? I am not bound to assign his motives, nor would it alter the nature of the crime, nor lessen its enormity if I omitted to suggest any: I will only state a few facts.

The Senate having separated and gone to various parts of the United States, before the anomalous transaction was patched up between Mr. Madison and Mr. Erskine, there was no possibility of convening them again, in season to meet the *pressing state of the times*. The elections were to come on in New-York the very next week, and in Virginia soon after. To go to the election with the Embargo upon their backs was too ponderous a load for the Administration party: *a forlorn hope*. Nothing was so desirable, as to take off this load; and to do it instantly; that very day. It was done. The despatches between the two Ministers, were delivered to the printers before the ink was dry, and arrived by express in all parts of this state before the polls opened on Tuesday morning. Such are facts—I leave inferences to the public.—

The second point in the arrangement relates to the Orders in Council on one side, and the Non-intercourse act on the other. On this point Mr. Madison has himself taken care to leave us in no manner of doubt as to the capacity in which he acted, and the source whence he derived his power.

By the 11th section of the Non-intercourse, so called, it was provided, that

“In case either France or Great-Britain shall so revoke or modify their edicts as that they shall cease to violate the neutral commerce of the United States, [the President may] declare the same by proclamation, after which the trade suspended by the said acts, and by an act laying an Embargo on ships and vessels in the ports and harbours of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing.”

Under this section of this statute, it was, (as appears by his own proclamation, issued on the 19th of April,) that Mr. Madison chose to act on this occasion. He chose to lay aside his constitutional executive powers, which were fully sufficient to have enabled him to adjust any disagreement, or enter into any compact with a foreign nation, and to appear as the humble Minister or Agent of Congress, under the above law: the duties of which

might with more propriety and decorum, have been assigned to one of his subordinate officers.

On the one side, then, we see Mr. Madison putting out of view the constitutional executive powers, and appearing and acting, as to this point, as the minister or agent of Congress, under a statute, prescribing to him the course which he was to follow, and the conditions on which, alone, he was to suspend the non-intercourse law with Great Britain: on the other side, we see Mr. Erskine, the minister or agent of Great Britain acting and professing to act under instructions which prescribed to *him*, the course which *he* was to follow and the conditions on which, alone, *he* could bind *his* country to recal the orders in council. Both these personages are to be regarded as mere agents, procurators, or mandatories, acting, in this respect not in their own right, but solely under the authority of their principals. The powers of these agents, procurators, or mandatories, were therefore subject to the general rules universally applicable to every kind of delegated authority. What those rules are, will be considered in the next number: and the acts of the agents tried by the test they afford.

For thus laying aside the office of President, and acting as agent to Congress, however, Mr. Madison had his reasons: since it cannot, in charity, be permitted to Mr. Madison to plead his ignorance of the constitution.—He had his reasons. They may have been many; I shall suggest but two.

1st. Had he made the contract in his capacity as *Executive*, he could not have availed himself, as has been done, of the plea of want of authority to accede to the terms of the first condition of Mr. Canning's despatch: terms, not only offered by Mr. Madison to Mr. Erskine in December preceding; but which had been offered by Mr. Jefferson himself more than a year before: as now stands recorded in his message to Congress of November 8th, 1808. But was it to be expected of Mr. Madison that he should engage that our ports should not only be opened to Great Britain, but, in the words of Mr. Jefferson's Message "*remain shut to France*," and thus "*resist her illegal decrees*."—This would have been to have counteracted every favourite propensity of his whole heart. What? Mr. Madison offend France? The disciple of Jefferson, the author of the hostile commercial resolutions against England, in the commencement of the government, offend France? He who boldly endeavoured to convince Mr. Randolph, that because France wanted money, therefore the United States must furnish her with it to carry on the war; he who, unceremoniously declared, in seven words.—"*France wants money, and must have it*."—Is it he, I ask, who could be expected to cross France by shutting our ports to her in any event? Common sense revolts at these questions. But though Mr. Madison would not cross

the wishes or feelings of France, he is politician enough to desire a cover for his partiality towards her, and in the instance before us, he found it by acting as a mere agent under the law of Congress; by which means he provided himself with a plausible excuse for not making any engagements to continue the ports shut to France; since no engagement to that effect, *thus* made, would have been at all binding on Congress, even had he made it. And no sooner was the question of our foreign relations brought forward in the House of Representatives at the subsequent session, than Mr. Madison's party openly came out, and boldly declared that they would make no discrimination in favour of Great Britain and against France. And on the 20th June, the House did in fact decide by a formal vote 77 to 35, that they would make no distinction between the admission of British and French public vessels into our ports and harbours.

2d. By this master stroke of cunning, as distant from true wisdom as of real honesty, a partial and temporary relief from the embargo was secured, at all events, on the one hand; on the other, time was gained for sending off the apostate Adams, on his mission to Russia: A mission hatched by Jefferson under the *pretence* of forming a commercial treaty, though we have neither trade of any nameable amount with Russia, nor any political concerns with her, nor ought to have any; but, in *reality*, for the purpose of entering into the *quintuple coalition* with her, and the other powers, composing the north of Europe, on the side of France against England. I have not time here to press this subject on the attention of the people, with all the force and solemnity it merits; but it shall be resumed. I must now content myself with asking the public, whether, if such had been Mr. Madison's motives, he could have taken a more direct course to obtain his object, than he has done? And in proof of this, let me beg the reader to look round on what has passed, and is at this moment passing before him. Have not every possible means been resorted to, that could either irritate the public mind against Great Britain, or conciliate it towards France? In short, could more pains have been taken, had war been determined on as the price of this execrable coalition?—A coalition, which, it would be easy to demonstrate, would be, as respects the United States, not more wicked and unjustifiable, than impolitic, stupid and self-destructive.

No. 17.

The want of Powers on both sides, and the consequences resulting.

We have seen what, precisely, were the nature, extent and limitation of the powers of Mr. Erskine, and what those of Mr.

Madison. We have seen that the latter acted in two capacities, as the Executive and as the agent of Congress ; and it has been shown, that in the former capacity he usurped powers unknown to the constitution, and consequently, that what he did as the *Executive*, was a void as well as a criminal act. It only remains to show, that what he did in the capacity of *agent*, was also void. This I shall now do.

It has appeared that the powers of both Mr. Madison and Mr. Erskine, as agents or procurators, were special ; extending to certain objects and no other, and to be exercised on certain contingencies, and not else. Without these contingencies, the powers were a dead letter. The remaining question that presents itself is an obvious one ? Did those contingencies take place ?

On the side of Mr. *ERSKINE*, the contingency was, *a reception by him of an official note, containing an engagement for the adoption by the American Government of the conditions specified in Mr. Canning's Despatch*. Did this contingency happen ? Did the fact take place ? Did he receive the note required ?—He did not—He disregarded his instructions—he exceeded his authority—Consequently, his powers were a dead letter ; not binding upon his sovereign—and might lawfully, and without any objection, from us, be disavowed by the King of Great Britain.

On the side of Mr. *MADISON*, the contingency first to happen, was, *the revocation or modification of the British edicts, violating the neutral commerce of the U. S. ; or a revocation of the Orders in Council* : after which, he was empowered to *declare the fact* to the nation by proclamation, and from that time the trade suspended, was, by the operation of the Act, renewed with Great Britain.—Such is the simple contingency, positively required by the statute. It did not contemplate that the United States should do the first act ; on the contrary, it required that the first act should be done by Great Britain : technically, the contingency was, what, in law, is called a *condition precedent*. The statute gave Mr. Madison no discretion ; but tied him down, so that he could not act, he could not stir one single step, his powers did not quicken, if I may be allowed the expression, until the contingency had first actually taken place ; until the Orders in Council had been repealed, or so modified as no longer to affect the United States in their operation. This contingency was not a *promise*, but a *performance*—not an *engagement to do*, but an *act done*—not a *stipulation* by an agent, even with a full power, to make a compact, which, like all others between nations, might be ratified or disavowed by the sovereign ; least of all, did it contemplate a stipulation by an agent not authorised to make it—In a word, the statute specified without ambiguity, a fact, a single fact, on the pre-existence of which, alone, it authorised its agent, Mr. Madison, to issue an official paper announcing that this fact had actually happened ; there his power ceased ; from that time, he was, *functus officio*, in

law ; exhausted of all his authority, as agent : The act proceeded to declare the consequence, namely, a restoration of commercial intercourse with Great Britain.

Did Mr. Madison, then, conform to *his* instructions ? Did he pursue the special power with which he was invested ? Did the contingency first arise ; did the fact first happen, on the previous existence of which, alone, he was empowered to issue his proclamation ? In other words, had the orders in council been recalled or modified so as not to affect the United States ?—They had not.—It necessarily, then, follows, that Mr. Madison, also, as well as Mr. Erskine, disregarded *his* instructions—he exceeded *his* authority—consequently *his* powers were a dead letter *also* ; not binding on his government, and might lawfully and without objection from the other party, have been disavowed by the United States. The case, then, when duly and fairly examined, presents us with the extraordinary spectacle of two agents representing two governments and attempting to bind those governments by engagements, which neither was empowered to enter into ; the one being equally without authority as the other. And, for the same just reason, that Great Britain was perfectly free to disavow the arrangement concluded on the part of Mr. Erskine, namely, because he was not authorised by his powers to conclude it, were the United States free to disavow the arrangement concluded on the part of Mr. Madison, namely, because he was not authorised by the statute to issue the proclamation : both being invalid acts. As on the one side, then, a comparison of the law with the proclamation of Mr. Madison, would of itself, have been a justification of the refusal of the United States to ratify and confirm, and a simple statement of this fact, a sufficient explanation to Great Britain for this refusal, so on the other, a comparison of the instructions of Mr. Erskine with his engagement, is a justification of the King's refusal to ratify and confirm, and the simple statement of the fact, a sufficient explanation to the United States for such refusal.

No. 18.

An interesting Question examined and answered.

The Administration have lost no opportunity to magnify the importance, the formality, and the solemnity of the *arrangement* with Mr. Erskine, and it has been proved that this important, formal and solemn transaction was made and concluded by two agents without any authority on either side. They also vaunt much of their “good faith ;” in having “faithfully carried into execution” the arrangement, on our part, and hence deduce a very strong claim on Great Britain, (brought forward in a haugh-

ty tone,) to be recompensed for what they are pleased to term the ‘*irrevocable* and in some respects *irreparable* effects of this arrangement, on the relative situation of the United States.’ I need not observe, that this is not the most lacid phraseology ; indeed, the idea is so carefully obscured, that Mr. Jackson, with all his acknowledged sagacity, quite mistook their meaning, and answered it as an allusion to some great loss of property : I understand however, that by “ its *irrevocable and irreparable effects*” they merely mean the raising of the Embargo, which followed the arrangement, and being once off, however valued it was, in itself, yet somehow the nation would not submit to its being laid on again. But with what sincerity they thus lament the removal of this load, and with what justice they found claims for recompence on Great-Britain, will readily occur to every man who remembers how fast it was pressing them to the earth, and that they could not have survived the spring elections, had they not dexterously contrived to shift it off as they did.

I do believe, that when I shall have completed these numbers, it will be found, that the administration have not one inch of ground to stand upon ; but I will here retreat a step, for the purpose of admitting, examining, and disposing of the claim above advanced against Great-Britain for indemnity against the “ *irrevocable and irreparable effects*” of the arrangement. Let me, then, for the present, concede, that, on the part of the United States, the arrangement has, in truth, been carried into execution with “ good faith.” If so, what are the claims which it gave us upon Great-Britain—what was she, by the law of nations, bound to do ?

This question I propose to solve to the entire satisfaction of every reader, by producing some passages, directly in point, from a work of established reputation, which has more than once been quoted on the part of the administration, in the present controversy, and which Mr. Madison calls “ a high authority on public law.” But in order to prepare us for the rules applicable to the case, it is first proper to state a few facts which ought to be borne in mind, and which I consider to be established beyond dispute.

I understand it, then, to be now admitted on all hands, first, that Mr. Erskine had no other powers to make the agreement, than those which, at the suggestion of our Minister in London, as mentioned in his first letter, were sent to him for that purpose ; and which powers, it is at length acknowledged by the Secretary of State, in his letter of October, were not sufficient, if known, to enable him to make the arrangement he did. This being premised, and it being conceded, for the sake of the argument, that Mr. Madison, on his part, was fully empowered to do what he did ; and it being further conceded, that the arrangement was immediately executed on the side of the United States with perfect “ good faith,” let us turn to the law of nations applicable to our case. First, the author thus defines such a transaction :

"People, (says Vattel,) call in latin, *sponsio*, an agreement relating to affairs of state, made by a public person, who goes beyond his commission, and acts without the order or command of the sovereign."*

"By a well grounded custom, *any engagements*, which the minister should enter into, are at present, of no force among sovereigns, unless ratified by his principal."

After showing what the public person, himself, thus making such an agreement, is bound to do, when the state disowns the agreement, but which it is unnecessary here to repeat, he approaches nearer to our own case; and these are his words:

"We have shown, that a state cannot be bound by an agreement made without its order, and without having granted any power for that purpose. But is it absolutely under no obligation? This is what we are now to examine—If things are in their first situation, the state or sovereign may disown the treaty, which falls by this disavowal, and is as if it had never been. But the sovereign ought to manifest his resolution as soon as the treaty comes to his knowledge; not indeed, that his silence alone, can give validity to a convention that cannot have it without his approbation; but it would be unjust for him to give time to the other party to execute on his side, an agreement which he would not ratify."

And at length he comes to such a case precisely, as that before us, is admitted to be; an admission made for the sake of the argument and in order to give the Administration all they ask.

"If he has already done any thing in virtue of the agreement, if the party, [the United States] who has treated with the *sponsor* [Erskine] has, on his side fulfilled his engagements, either in the whole, or in part, ought he to be recompensed; or things to be restored to their first state on disowning the treaty; or will it be permitted to reap the fruits of it, at the same time that the ratification is refused?"

"We should here distinguish the nature of the things that have been executed, and that of the advantages that have accrued from them to the state. *He, who having treated with a public person not furnished with sufficient power, executes the agreement on his side, without staying for its ratification, is guilty of an imprudence, and a very great fault*, to which he has not been induced by the state with which he thought he had contracted. But if he has given any thing, it cannot be retained by taking advantage of his folly." "But if the agreement has given nothing to the state which it had not before: if, as in the case of Caudine Forks, all the advantage consists in being drawn from danger, and preserved from destruction, *this is a fortunate advantage that may be improved without scruple*. Who would refuse to be saved by the folly of his enemies? And who would think himself obliged to indemnify that enemy, for the advantage he had suffered to escape him, when he had not fraudulently contributed to the loss?"

Such, then, is the law applicable to the case. A state, we have seen, is not bound by an agreement which it did not authorise, and, if the other party proceeds to act upon such agreement without waiting till it is first ratified, "*he is guilty of an imprudence and a very great fault*," and can blame nobody for the consequence that may follow. All that the party disavowing the agreement is bound to do, is, that "*he ought to manifest his resolution to disavow as soon as the treaty comes to his knowledge*," and if any

* "*He who passes the limits which are prescribed to him, not only deceives his master, but does a great injury to the Prince with whom he treats; because it always depends on the master to ratify or not an engagement formed by a minister, who acts contrary to his instructions.*"

thing has been given and delivered to him, that ought to be restored; but if he has only obtained the benefits of a favourable, "arrangement," "this is a fortunate advantage that may be improved without scruple." What, then, was done on the part of the United States, and what has been done on the part of the King of Great-Britain? We withdrew the operation of our Embargo and Non-intercourse against her; and the King, manifested his disavowal "as soon as the transaction came to his knowledge," and "suspended the Orders in Council so far as was necessary for the protection of the vessels sailing under the faith of the provisional agreement."——This was full as much, it was certainly all that by the law of nations, he was bound to do.——What more could be asked, even putting the case in the most favourable point of view for ourselves; even supposing our Embargo laws were measures of hostility, annoyance and real injury to Great Britain, and that we had thus relieved her from their operation? But are our government now entitled to consider them in that light? Can they so consider them after they have solemnly and officially represented them in a totally different light?—Surely it is not forgotten that Mr. Pinckney was expressly instructed by Mr. Madison, to represent to Great Britain that our Embargo was *a mere measure of precaution, an innocent municipal regulation, which affected none but the United States, and in which no foreign state had any concern.* And did not Mr. Jefferson declare the same in a message?—He did.—Whence then their cause of complaint?—And with what colour of justice; with what face, does Mr. Smith now come forward in this correspondence and declare to Mr. Jackson "that some of the circumstances attending the execution on the part of the United States render it *unsusceptible of a full equivalent* for the refusal to execute it on the other side," haughtily adding, the President still persists in demanding still further and more satisfactory and more formal explanations. This, I really think, required full as much assurance as falls to the lot of any one man. If such were really the fact; if the Administration gave up such immense advantages over Great Britain, that there can be no equivalent for the loss of them, in how strong a light does it place their extreme folly and their culpable imprudence, in parting with these advantages without first ascertaining whether they were treating with an agent empowered to treat? And how will they account to the people of the United States for such gross neglect, such unaccountable oversight, such criminal mismanagement?

The "Good Faith" of our Government.

In the last number, in order to bring to the test, the nature and extent of our claims on Great Britain arising from his Majesty's disavowal of Mr. Erskine's arrangement, the administration were allowed all they asked ; namely, that the arrangement on the part of Mr. Madison was formally and 'solemnly' concluded, and in strict pursuance of his powers ; secondly, that it was executed by the government in "good faith." And having yielded this, it was then shown, that, by the law of nations, we could have asked but two things of Great Britain if she chose to disavow the transaction : first, that his Majesty should manifest his determination to disavow as soon as the transaction came to his knowledge ; secondly, that he should so suspend the Orders in Council as to exempt from their operation those of our vessels which had sailed under the faith of the provisional agreement. This, it appeared, was the summit of our just expectation : and this, we had received long before Mr. Jackson sailed for this country. Still Mr. Madison remains unsatisfied. Still he demands something more. He directs the Secretary of State to inform Mr. Jackson that notwithstanding the notice he had received of the disavowal through Mr. Pinckney in London, he still expected from him, Mr. Jackson, a formal and satisfactory explanation : and notwithstanding Mr. Jackson's attempt to give it, without being instructed or being under the least obligation to do so, he still persists in his expectations of receiving this same explanation, declaring that every thing yet given was inadequate both in substance and manner. I might ask our stately President on what grounds he advances this pretension ? In what page of national law, or in what precedent of this or any other country, can be discovered any thing to authorise this insatiable demand ? Vattel would inform him, that an agreement thus made without authority, "*falls by the act of disavowal itself*, and is to be considered as if it had never been." But I shall not stop here.

The lofty and unbecoming airs which the administration have given themselves on this occasion ; the confident assurance with which they have advanced, and the ridiculous pertinacity with which they continue to insist on obtaining further concessions, naturally provoke scrutiny. They rest their demand on two grounds : one, the perfect correctness of their own conduct in concluding the arrangement "so solemnly ;" the other, their manifest justice in executing it with such "good faith." As to the former of these imposing pretences, the result of an impartial examination into it, has been, to show, that Mr. Madison totally departed from his powers, as to one of the two particulars, of which the arrangement consisted ; for which he deserved a public vote of censure ; and, as to the other, that he was guilty of a heinous

offence against the constitution for which he ought to have been impeached. Whether, as to the other pretence that of "*good faith*," they stand on any better ground, is now to be seen; but this point though an interesting one, shall not detain us long, for I am eager to arrive at a topic of still greater interest, before the patience of my readers is exhausted.

I must begin by asking permission to retract the concession I made in my last number, for argument's sake, and I, then, once more advance to demand of the friends of the administratism in what this 'GOOD FAITH,' about which they vaunt so much, consisted? Was it in passing an act one day prohibiting all intercourse between the United States and France and her *dependencies*, and the very next, issuing a Circular by the Secretary of the Treasury, in which, intrenching upon the province of the judiciary, he expounded the law so as to exempt *Holland* from its operation? Holland, at that moment, both a dependency on France, and having decrees in force against the United States exactly similar to the decrees, of Berlin and Milan? Or is it to be seen, let me ask, in the conduct of the Madison majority in the House of Representatives, on the 26th of June following, before any notice of the disavowal had been received in this country; when, on the subject of *Foreign Relations*, they determined, 77 to 35, they would *not* "exclude the public ships or vessels of FRANCE from the waters of the United States;" that they would make no discrimination between British and French public vessels? Or is it to be found in the act which soon afterwards was passed by the same majority, expressly admitting French public vessels on the same footing with British? When these questions can be fairly and satisfactorily answered; when these facts, which stand engraven, a stain, on the solemn records of our Congress, can be obliterated; when time and space can be annihilated, and events that have happened can be denied pre-existence, then, and not before, may Mr. Smith boast to the world of their "public faith," in the hope of cheating the easy credulity of the people, and obtaining their applause. No: The pretence to "*good faith*" in the execution, rests on a foundation as baseless as the pretence of *solemnity*, in the conclusion of the arrangement: there was neither solemnity in the one nor good faith in the other.—And now, then, I ask, on what ground rests their demand of explanation and apology?—But an explanation does indeed remain to be made.—These jugglers, have yet to explain and to account to the people of America for thus having sported with their interests, in concluding with an unauthorised agent of a foreign power, an arrangement, which we have their own word for it, has been followed by a train of evils both "irrevocable and irreparable?" With the evidence of such facts before us, in what better light can we consider these pretences but an impudent attempt upon our good nature, or a mockery of our understandings?

Introduction to the Examination of Mr. Jackson's Share of the Correspondence.

Of those honest men who have publicly dared to examine the rupture with Mr. Jackson, with becoming boldness, regardless of popular clamor, and of those senseless professions of patriotism with which our ears have been dinned, calling upon us all without distinction to *Rally round the Government*, few have taken that particular view of it, which appeared to me, the best calculated to comprehend it truly and fully. Almost all have begun, and too many have contented themselves with ending with criticisms on the alleged offence of Mr. Jackson only, and have directed their efforts to disabusing the public mind as to this single circumstance. This they have done, I admit, with uniform success; and the people already are convinced that their government have taken a causeless, unjustifiable, rash step, towards the representative of a powerful foreign nation; a step of which no one can yet foresee the consequences. But after careful deliberation I have been led to steer a different course; and I have yet seen nothing to cause me to swerve from it.

It requires not much sagacity to perceive that the game of the administration was to mislead the people, by contriving to avert the eye of observation from themselves, and to fix it on Mr. Jackson. That in this, they have not altogether been unsuccessful, is proved by the very course which has been followed by those opposed to them. Hitherto the federal presses have been almost entirely occupied in showing that the charge against the British minister was without foundation: and in the seventeen days debate in Congress, no small proportion of it was allotted to the same object. Too little attention has been directed to the other side of the medal. The consequence has been, that along with the defence have been mingled admissions and concessions which were not only uncalled for, which could do nothing but harm, and to which the administration were not entitled, but also, there have even been animadversions thrown out upon the conduct of Mr. Jackson, which were as ill-timed and impolitic, as they were utterly unmerited and unjust. All this has followed from our falling too readily into the snare so artfully laid by the administration. Had our writers and our speakers begun, as the subject fairly and naturally suggested, by considering first what had been the conduct of Mr. Smith, as introductory to the consideration of that of Mr. Jackson, very different would have been the impressions they would have received themselves, and very different the language they would have held.

A brief recapitulation will more fully explain my meaning.

In the first place, the public faith was strongly challenged by in-

formation sent forth through the Washington press, and in a manner to give us to understand that it came, as it has since appeared but too plainly that it did come, from the administration, stating that the British ambassador had been silenced, and all further access to the government denied him, for egregious misconduct; in short, for a gross insult to the American administration. Next came the President's Message, in which he ventured to tell Congress that Mr. Jackson, "forgetting the respect due to all governments, did not refrain from imputations on this, which required that no further communications should be received from him;" referring us to the correspondence, as evidence of the truth of this high charge. Lastly, came the documents containing the correspondence itself. That they should have been opened under impressions not very favourable to the reception of truth, is surely no very great matter of wonder. But if the public mind had been thus artfully bent and warped, before it began to employ itself in the perusal of the evidence offered it, and offered with a boldness so well calculated to impose on its ready credulity, how great was the chance of increasing its crookedness, if not of fixing it forever, by the first letter of Mr. Secretary Smith?

We open that letter, and we peruse it, in the belief that it contains nothing but that truth and fairness which, alone, are compatible with the credit of the government and the honour of our country. We perceive in it, that his Britannic Majesty had never deigned to explain the disavowal of the arrangement, and that Mr. Jackson, much to the regret of the President, had come without any instructions to make any explanation even now. Secondly we perceive that no settlement of our difficulties with Great Britain is to be obtained, but upon the very terms that had been already rejected, and two of which, all parties united in condemning as inadmissible. Lastly, we perceive that the conferences on the part of Mr. Jackson had been so unsatisfactory, so vague, and so evasive, that it had become necessary to intimate to him that oral conferences could no longer be allowed, but that future discussions must be in writing. Such were the respective attitudes in which the two parties were placed before our eyes. Is it to be wondered at, that, with all these advantages in their favour, the administration should have calculated with confidence on obtaining a verdict before a hearing? And that having once secured a decision, the humble merits of the case might sue in vain to be examined afterwards? The triumph of such a verdict they certainly did obtain; but it was a temporary, and will prove to be no very honourable, triumph. They have counted too securely on their arts of imposition, on their faculty at deceit, on the thick concealment in which they fancied themselves enveloped. The real merits of the case have been partially disclosed, and the people already are daily becoming disposed to pronounce a solemn reversal of judgment. "Kn—s little think, when they are ex-

erting their arts of imposition and exhausting their fund of deceit, for the prosecution and concealment of their scandalous purposes, that they are telling the world they are scandalous by their very concealment." To drag to light these purposes, has hitherto been my steady aim ; for, until the mist in which they had hid themselves was dispersed, how could it be expected the brightness of truth could appear ?

It has been demonstrated, in the preceding numbers, that every pretension put forth by Mr. Smith, in his first letter, is entirely unfounded ; and every profession insincere ; that every fact stated, is materially and wilfully misrepresented, and that the hasty rudeness with which the British resident minister was deprived of all further oral intercourse, was "a violation of one of the essential rights of a public minister." Having shewn this, and thus endeavoured to dispel the prejudice with which the most candid reader must have begun the perusal of Mr. Jackson's letters, we are now, and not before, prepared to turn to those letters. Let us examine their contents, in relation to the offence charged against him, and see if any ground is to be found for that charge ; either in the substance of the letters, or in the temper in which they are written ? That there was *no ground whatever* for this charge I stand pledged, long since, to show ; in my next I shall proceed to redeem it.

No. 21.

Mr. Jackson's Share of the Correspondence considered.

We come, at length, to the letters of Mr. Jackson, and we are prepared to begin their perusal by having been previously made acquainted with the nature of the letter which he was called upon to answer ; with the unprecedented and very unhandsome behaviour (to use the mildest terms) which he had experienced, and the very extraordinary situation in which he found himself placed. Justice demands, that in opening Mr. Jackson's first letter, we do so with impartiality and with candour : impressions, very different from those, which, with infinite pains and infinite meanness, but with some success, were attempted to be made upon us, in the first instance, by the administration. Let us consider, then, what must have been his surprise at receiving, in the midst of apparent good humour and cordiality, a letter from Mr. Smith, interdicting him from further oral intercourse ; one of the most important privileges of an ambassador ? What his astonishment, at the haughty demand upon him to clear his sovereign from an odious implied charge of a departure from good faith ? But lastly, what must have been the amazement that seized him, at finding this letter imputing to him, with laboured precision, that he had proposed to the

Secretary of State, and had insisted upon obtaining, as the basis of any arrangement, three conditions, neither of which he had ever mentioned ; conditions, known long since to be offensive and inadmissible and which, he therefore, had never once proposed in any shape ; but so far from it, had carefully and cautiously abstained from making any proposals whatever ? What, I ask, must have been his emotions ; his surprise, his astonishment, and his amazement at the reception of such a letter ?— But this letter, it became his duty to answer. And what was the answer which, under such a complication of circumstances, was to have been expected ; what its terms ; what its spirit ? The honour of his sovereign questioned by unfounded insinuation ; himself grossly misrepresented, and all opportunity of verbal communication refused ! What, then, was it his duty under such trying circumstances to say or to do, ? What, in such case was allowed, or rather enjoined by the established usage of civilized nations ? Let us once more hear the justly celebrated French civilian, De Real, as to the duty of an ambassador.

“ The privileges of embassy are an attribute of sovereignty, and ambassadors, therefore, cannot, if they would, abandon them, either in civil or criminal affairs.”

“ Neither in the audiences to which he is admitted, nor in the notes which he presents, should the ambassador forget, that it is a sovereign whom he represents, as well as a sovereign to whom he speaks.”

“ Nothing should prevent him from conforming exactly to the orders given him ; *nor from showing firmness and spirit on every occasion, where the interest of his prince requires it.* If the sovereign to whom he speaks, makes use of menaces, in his discourse, or if he expresses ideas injurious to his master, the minister may, and ought to ANIMADVERT UPON THEM WITH SEVERITY, [les releves tres-fortement] and he becomes culpable* if he omits doing so.— p. 318. 819.

On the reception of Mr. Smith's letter, only two courses presented themselves to Mr. Jackson ; one, to inform his sovereign of his having been debarred all verbal intercourse, and wait his

* Thus Don Pedro de Toledo, ambassador of Philip the Third of Spain, being at an audience of Henry the Fourth of France, this Prince said to him, haughtily, “ If the King of Spain continues his outrages, I will carry fire into the very Escorial.— If I once mount my horse, you will quickly see me at Madrid.”—“ The King Francis was once there,” replied the ambassador, instantly : intimating to Henry, that he might indeed arrive at Madrid, not, however, as a conqueror, but as a prisoner, like Francis. An answer worthy the independence and spirit of an ambassador. Again—Anthony Donati, being the Venetian Ambassador to Pope Paul the Fifth, that Pontiff asked the minister where his Republic kept the titles of the villages which it had in possession on the Terra Firma ? They will be found, replied the ambassador, upon the bank of the grant of Rome, made by Constantine, to Pope Sylvester.—Thus casting back upon the Pope, the reproach of usurpation, which he had imputed to the Republic.”

commands ; abstaining, in the mean time, from any further exercises of his ministerial functions ; the other, to acquiesce in the interdiction, with a *protest* against such an unheard of proceeding. Mr. Jackson chose the latter, as the milder of the two, and, to prevent, as he says, the detriment to the public service that would ensue, if his ministerial functions should, for a length of time, be suspended. Considering the prejudiced state of the public mind, at the time of the first appearance of the documents ; how much it had been abused and warped by low craft, and how much inflamed by every disingenuous artifice, it was particularly unfortunate that Mr. Jackson should have found himself thus compelled to begin the correspondence, on his part, with a formal protest.—The people did not attend to the distinction between the protest and the letter ; and the distinction yet remains to be made, and the erroneous impression is yet to be corrected, which has universally prevailed, by confounding the one with the other.

I shall not take a moment's time to show the propriety and even the necessity of entering a protest on this occasion : suffice it to say, that no objection was made to it on any ground, by Mr. Smith himself, as we shall presently see, other than that Mr. Jackson had misconceived his meaning in his interdiction. Admitting, then, a protest to have been right and proper, it becomes quite material to consider what is a protest. It is not a conciliatory proposition ; it is not an amicable letter ; neither is it a discussion, nor a controversy ; but a protest always implies a strong sense of injury ; it is neither more nor less than a formal and recorded complaint against a wrong, with the assertion of a right ; and if it contains the language of dignified animadversion, it offends neither against usage nor propriety. In the case before us, Mr. Jackson contented himself with declaring that he entered his protest against the interdiction, “ as against a proceeding which he could consider in no other light, than as a violation, in his person, of the most essential rights of a public minister.”

In answer to this protest, Mr. Smith says he only meant to confine the written communications “ to this particular occasion ; ” and to shew that he was justified in insisting on having the *discussions* in writing, he triumphantly refers to the case of the British Secretary Mr. Canning in his correspondence with Mr. Pinckney ; by turning to which, it appears, that Mr. Canning, after having long and repeatedly discussed with Mr. Pinckney, certain *proposals* which the latter had proffered, desired him to state those proposals in writing, so that there might be no misconception respecting their import. On that occasion Mr. Canning observed to Mr. Pinckney, very truly, that “ the whole course and practice of office was to require a written statement of *proposals* previous to returning an official answer to them, and that he had taken for granted all along, that such would and must be the *ultimate* proceeding on the part of Mr. Pinckney ; however he might wish to prepare the way for it by *preliminary conversations*.” That Mr.

Pinckney should not have been altogether satisfied on that occasion, and that the administration should have been still less so, will not surprise any one who recollects the slippery game that was then so cunningly attempted to be played off in London ; in which Mr. Pinckney was duly instructed, say what he would, to commit his government to nothing, in short, to render himself as eel-like as possible, so that no fast hold could be taken of any part of him, nor any trace left of his path. The difference between the precedent cited, and the case to which it was applied, is stated by Mr. Jackson, in his answer, with perspicuity and precision.

“I will only observe, that in the case which you mention^d to have occurred between Mr. Canning and Mr. Pinckney, the *conferences* were held, under an expectation, at least, on the part of the former, of their leading to a *written* communication, whereas, in ours, I, from the beginning, stated that I had *no such* communication to make. There is, also, *this essential* difference between the two cases, that Mr. Pinckney was charged to convey an important *proposal* to his Majesty’s government, the particulars of which it might be very material to have correctly stated, whilst the object of that part of my conversation, to which you seem to attach the most importance, was to say, that I was *not* charged to make *any proposal whatever*.”

Yet, this is the case, on which Mr. Smith relies, as in point to justify him for debarring Mr. Jackson, in the short space of a week after his arrival, and without any misunderstanding with him, from verbal discussions on a complicated subject, of “unusual delicacy and importance.” Such, however, being the marked difference between them ; it appearing that Mr. Jackson had no proposal whatever to make, but that proposals, if any were to come from the other side, the public are yet to be informed of any good reasons Mr. Smith could possibly have for insisting upon written communications, confining Mr. Jackson to them and refusing to receive any other.

Here I take occasion, by way of remark on this passage in Mr. Jackson’s letter, to rectify another misunderstanding of no small importance, which long ago took possession of the public mind, and has not yet been sufficiently eradicated.

Upon the disavowal of the arrangement of Mr. Erskine upon the ground of its being not only unauthorised, but contrary to his instructions, the occasion called for a third step on the part of G. Britain, in addition to the two heretofore mentioned ; namely, the recal of the minister who had thus violated his instructions, as a punishment upon him, and the immediate appointment of a successor, as an indication of her good will towards the United States. In pursuance of such views, Mr. Erskine was recalled and Mr. Jackson was appointed as his successor. On this point the public seem to have formed an erroneous notion ; it seems to be the received opinion that Mr. Jackson came to this country for the purpose of *resuming the discussion of the matters intended to have been adjusted by his predecessor*. But the contrary is the fact.—

He came as the successor of Mr. Erskine ; as a resident minister. He did not come for the purpose of resuming the subject of Mr. Erskine's arrangement ; first, *because*, it had been discovered that our own government did not adhere to the overture upon which the instructions to Mr. Erskine were professedly founded : Second, *because*, in the words of Vattel, "the agreement having been disavowed, *fell of itself*, and is to be considered as if it had never been." Bearing this distinction in mind, then, it readily occurs that it was not to have been expected that Mr. Jackson should make us any particular proposals : to do so could neither have been his duty nor his business.

To return from this digression to the protest ; I beg leave to repeat, that this protest has not been sufficiently attended to, as such, nor considered in its true and proper light ; from which inadvertence, it has unfortunately happened that the protest has been allowed to give a colour and complexion to the whole of the letter to which it is the introduction. As making a part of that letter, an amicable, explanatory letter, its manner might have been objectionable : as a protest, not at all. Let us now, then, dismiss it, as being a distinct paper of itself, with which the remainder of the letter has not, as it ought not to have, any connexion in matter, nor any resemblance in style.

No. 22.

Mr. Jackson's First Letter.

Having disposed of the *protest*, by showing that it really made no part of Mr. Jackson's letters, and ought not to be considered as such ; let us now open the letters themselves. We open them, in order to look for those improper and unwarrantable expressions, which have been seized upon by the Administration, as a sufficient ground for refusing to hold any further communication with him, as the representative of the King of Great Britain ; and as a sufficient justification to this nation for whatever consequences might fall thereon. One consequence they certainly knew must follow ; a mutual recal of Ministers from the two countries ; and it is not very obvious how amicable relations and a good understanding can be kept up between two such countries, as that and this, with such habits, inclinations and connexions, without any channel of communication. However, they have chosen to take all risks in the vindication of that personal honour which they have alleged to the world has been attempted and violated by Mr. Jackson. It is for us now to examine, whether they had any real grounds for this allegation : if they had, they will not find the people backward in giving them all proper support ; if they had not, no language can sufficiently express the detestation and abhorrence which their conduct must and ought to inspire.

Every point in Mr. Smith's first letter, excepting the demand of explanation for the disavowal, has been fully discussed and dismissed. It is in Mr. Jackson's answer to this demand of explanation, and his attempt to give it, that the fatal offence has been taken. To that topic we, therefore, come; and it is a topic, about which so much has already been said and been printed, and with so much ability, that I should not again meddle with it, were it not in the hope that longer and more intense reflection on the subject, may have enabled me to place it in some new, and perhaps stronger points of view, than any in which it has yet been exhibited.

In answer to Mr. Smith's peremptory demand of a prompt and formal explanation of the grounds of his Majesty's refusal, "to abide by an arrangement so solemnly made, accompanied by the substitution of other propositions," Mr. Jackson, after a few introductory words, expresses himself thus:

"I observe that in the records of this mission there is no complaint on the part of the United States, of his Majesty's having disavowed the act of his Minister. You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen, with pleasure in this forbearance, on your part, an instance of that candour, which I doubt not will prevail in all our communications; inasmuch as you could not have thought it unreasonable to complain of the disavowal of an act done under *such* circumstances, as *could only* lead to the consequences that have actually followed."

As the President's organ in the Senate, Mr. Giles has fixed upon the closing member of this last sentence, as containing the offensive expression, I have quoted the whole passage—let us examine it fairly.

Mr. Jackson, it appears, had till now heard no complaint of his Majesty's disavowal, from any quarter, either through the medium of his predecessor, nor in his verbal conferences with Mr. Smith; which, by the way, might, probably, he satisfactorily accounted for, if we only knew when Mr. Giles first made his appearance at Washington. Far, however, from pressing this circumstance upon Mr. Smith, he takes occasion to turn it into a compliment, by acknowledging his pleasure at having observed such an instance of candour. But it is said, that, at the same moment, and in the same sentence, he meant to insult and did insult Mr. Smith by saying that the arrangement was made under *such circumstances as could only* end in a disavowal. That the champion of Administration, and leader of the Senate, should lay hold of these expressions, or any other, and endeavour to distort them into a meaning, they do not fairly import, and that Jefferson's hopeful son-in-law should do the same below, is nothing surprising; but that any other man, in either house, should be led, from any motives, to adopt the same course, is more than I had expected. What does Mr. Jackson mean by saying that "the circumstances, *under which* the arrangement was made, *could only*" be followed by a disavowal? More than one speaker in Congress

has supposed that the "circumstances" alluded to, were those, and those only, detailed in his subsequent paragraph. But I do not so understand Mr. Jackson's expressions; which are neither loose nor inconsiderate. The subsequent paragraph speaks, only of the arrangement itself; and it is not until we have proceeded some pages further on, that we are put in compleat possession of what he means by "such circumstances."

In the subsequent paragraph, he mentions that he finds from Mr. Erskine's despatch of the 20th of April, that he had submitted to Mr. Smith the three conditions specified in his instructions, and that Mr. Smith had substituted those which were eventually accepted. Having observed that the difference between the two was sufficiently obvious to require no elucidation, he adds, that he "need not draw the conclusion, which, indeed, he considered as admitted by all absence of complaint on the part of the American government, viz. that under such circumstances, his Majesty had an undoubted and incontrovertible right to disavow the act of his Minister." Next, he proceeds to dispose of the supposition of Mr. Smith's, that Mr. Erskine had two sets of instructions, and that upon one of them which had not been communicated either to him or the public, was to be rested his justification of the terms agreed on; this he solemnly assures Mr. Smith was not so. He then gives the reasons why no particular explanation of his Majesty's motives for the disavowal had been inserted in his own instructions, namely, because it was known they had already been given. Lastly, he comes to that part of the arrangement respecting the Chesapeake, and having repeated his offers for an accommodation of this affair, he concludes by assigning the reasons why the former terms had not been carried into effect; which he does in the following manner.

"I touch with considerable and very sincere reluctance upon that part of your letter, in which you state that I had not assigned "any reason whatever why the reasonable terms of satisfaction tendered and accepted, have not been carried into effect."

"I believe that I had observed to you, in the words of my instructions, that if his Majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, his Majesty might be well warranted in doing so, both *by the form* in which his accredited Minister had tendered that reparation, and by *the manner* in which that tender had been received. I believe that I elucidated this observation by a reference to the *particular expressions* which made the terms of satisfaction appear to be unacceptable even to the American government, at the very moment when they were accepted, and *which at all events put it totally out of his Majesty's power to ratify and confirm any act in which such expressions were contained.*"

The "form and manner" here alluded to, and the "expressions" referred to, were those impertinent, indecorous and openly insulting expressions, made use of by Mr. Smith in his first letter to Mr. Erskine: those in which he told him, that a different mode of conduct in his Majesty, *would better have become his own honour*. What? A foreign Secretary of state pass upon the ho-

nour of an independent Sovereign? The annals of diplomacy may safely be challenged for an instance of similar gross impropriety and ill-bred affrontery. This then, it is, to which Mr. Jackson more emphatically alludes, by "such circumstances." And it is this also, to which Mr. Canning alludes, in his letter of the 27th of May, in which he speaks to Mr. Pinckney as to "the terms and spirit of *Mr. Smith's share of the correspondence.*" And to this, Mr. Jackson again alludes, in the following passage in his last letter:

The allusion, however gently expressed, was *wormwood* to the poor Secretary, and whatever he might have been before, certainly he has never been in any decent temper since.

In what manner, was this indecorous attempt to dictate what was most befitting the king's personal honour received in the British house of Commons; where Mr. Erskine's friends, and his father's friends, then sat upon the bench of the opposition, ready and able to expose not only every fault, but every inadvertent expression that fell from the ministry? How was it received there? By turning to the English journals of that date, it will be seen how it was received.

In the House of Commons on the 13th of July, Mr. Canning was called upon by Lord Henry Petty, not only the political but the personal friend of Mr. Erskine and of his father, for the instructions given Mr. Erskine, as well as the communications which he (Mr. Erskine) must have made to the government, explaining the motives for his recent conduct.

The despatch of July 23, forming Mr. Erskine's instructions, was then read, and the treaty itself was read, and to the mute astonishment of all parts of the house. After the reading was finished, Mr. Canning rose, and delivered a speech of some length, which now lies before me. "As to the *substance*," Mr. Canning said,

"No minister ever went wider of his powers. Mr. Erskine had been instructed to make concessions to America arising out of concessions on her part, but in such manner as to make the concessions *mutual*. Instead of this, however, Mr. Erskine had made every concession on *his* part, without attaining one stipulated concession on the part of *America*. Mr. Erskine was, (he said) instructed to obtain a continuance of the interdiction of commerce, not only with respect to France, but *every power dependent on her*. Whoever imagined that any would have been extravagant enough to view *Holland* as not under the influence of France! *Holland* could only have been considered as exempt, from two opposite admissions; for, if dependent on France, she must share the fate of France; and, if dependent, she was the more offensive to England, as voluntarily espousing the cause of her enemy. Mr. Erskine, on signing the treaty, might have been led into error by verbal assurances as to France, but not so with respect to *Holland*, as he must have known that she had been exempted from the operation of the Non-Intercourse Act."

And then alluding to the "circumstances under which the treaty was made" he said.

* By Mr. Gallatin's Circular of March 2.

"Before I resume my seat, I must however state that I do not personally know Mr. Erskine. I never entertained any prejudice against that gentleman, but *with respect to his conduct on receiving a note from the Secretary of State, I think him highly censurable.* HE OUGHT TO HAVE RETURNED IT UNANSWERED and put an end to the correspondence on receiving SUCH AN EXTRAORDINARY COMMUNICATION."

At the conclusion of his speech, Lord Henry Petty, overwhelmed with what he had heard, withdrew his motion. It is to be noted, that this "extraordinary communication" was in the first letter on the part of Mr. Smith, and therefore, for Mr. Erskine to have returned that "unanswered, and put an end to the correspondence" would have been to have stopped it *in limine*: consequently, no arrangement could have been concluded on any point. It was to this note then, thus spoken of by Mr. Canning, which, in the opinion of all parties in the House, ought to have been sent back in disdain, without any answer, to which Mr. Jackson must more particularly allude, when he speaks of "such circumstances" attending the agreement, as *could only* lead to a disavowal. The arrangement itself was sufficiently objectionable to his Majesty, because it did not obtain any one of the three conditions required; and might, therefore, lawfully, and without any complaint from us, be disavowed; but though it lawfully might, yet did it not follow, that it necessarily must be disavowed. No: it was not the failure alone to obtain the conditions that rendered it *impossible* for his Majesty to ratify it: reasons might *possibly* have offered themselves of sufficient magnitude to induce him to forego all the three conditions; even the first, as well as the other two, which have since been readily, and the last gladly, relinquished; Mr. Canning having expressly declared in the House of Commons, that "the *third* condition had been accepted as a *courtesy* on their part." But as to the above "expressions of Mr. Smith, in *his* share of the correspondence"—*they* involved the personal honour of the sovereign, and the honour of his crown; they were, therefore, such, as *could only* lead to a disavowal; such as "put it *totally* out of his Majesty's power to ratify and confirm any act in which such expressions were contained." Such is the fair construction of the expressions of Mr. Jackson, on which the vulgar, blustering Giles first fixes as containing the Insult to Mr. Smith. But, whether, instead of having rendered himself liable to reproach for insolence, Mr. Jackson did not entitle himself to thanks for his delicacy in having recourse to circumlocution, and allusions, instead of directly animadverting on the gross expressions of Mr. Smith, I shall submit with confidence to every gentleman, and every man of sense in the United States.

Same subject continued.

It will save much useless argument, to state, what, precisely, is the offence charged against Mr. Jackson by the Secretary himself — This cannot be done better than in the words of the charge itself. The following extract from the conclusion of Mr. Smith's letter of November 1st, contains it.

"But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your *repetition* of a language implying a knowledge on the part of this government that the instructions of your predecessor did not authorise the arrangement formed by him. After the explicit and peremptory asseveration that *this government had no such a knowledge*, and that with such a knowledge, no such arrangement would have been entered into, the view, which you have again presented of the subject, makes it my duty to apprise you, that *such insinuations are inadmissible* in the intercourse of a foreign minister with a government that understands what it owes to itself."

From this, it appears, that the insult consisted in imputing to the government, what I have in a former number, in technical language, denominated a *scienter*, a *knowledge* that Mr. Erskine was unauthorised to conclude the agreement; and it appears further, that this insult had been repeated before it was noticed. So then, the government receive the insult, pocket it in silence, and wait for the repetition of it, before they resent it! According to Mr. Smith, Mr. Jackson had insulted the government in one letter, and repeated the insult in another, before any sort of intimation was given, that such insult was inadmissible. He must then have insulted the government in his letter of October 11th, and again in that of the 23d; of which he was duly notified on the 1st of November. In the mean time, on the 19th of October, Mr. Smith had written him a long letter, answering, or attempting to answer a great number of topics treated of, in his of the 11th, in which it seems, he had first insulted him; but, throughout all this long letter, Mr. Smith not only expresses no resentment at an insult, but he concludes with pressing certain considerations on Mr. Jackson's "*candid attention*."—"I conclude, sir, he says, with pressing upon your *candid attention*," &c.—The candid attention of a man who had insulted him!

But before I come to the distinct refutation of the charge, let me give Mr. Smith one more opportunity to present it with still greater precision. Fearing, as well he might, that the public nose would be not a little at fault to discover the track of the *insult* he had started, he wrote a long letter to Mr. Pinckney, published it here in the newspapers, and pointed out exactly, first, where this *insult* was not to be found; second, where it was.

“It was never objected to him that he had stated it as a fact that *the three propositions in question had been submitted to me by Mr. Erskine*, nor, that he stated it, as made known to him by the instructions of Mr. Canning, that *the instruction to Mr. Erskine containing those three conditions, was the only one from which his authority was derived to conclude an arrangement in the matter to which it related*. The objection was that a KNOWLEDGE of this restriction of the authority of Mr. Erskine was imputed to this government, and the repetition of the imputation, even after it had been peremptorily disclaimed. This was so gross an attack on the honour and veracity of the government, as to forbid all farther communications from him.”

Here then we have the charge stated with some precision; and on this charge issue is now to be joined “to the country.” It is not that there would be any difficulty in making out the truth in complete justification; but in order to disincumber the record of various matter, and to present but a single point to the jury at once, (an essential requisite, saith the law, in all pleadings) I take issue on the allegation, and plead, generally, that Mr. Jackson “*is not guilty in manner and form* :”—*Not guilty of imputing to the government a knowledge that the instructions to Mr. Erskine, containing the three conditions, was the only one from which his authority was derived*.

According to a rule established in law, as found in my Lord Coke, (for “law, saith the learned Stevens in his learned lecture on Heads, is as nice as a new laid egg,”) the *onus probandi* always lieth on the plaintiff; in other words, the affirmative of all propositions is to be proved by him who affirmeth; and therefore, on the present occasion, as I have the advantage to take the negative, I might well content myself with merely answering what has been advanced on the other side; but for divers good reasons, I shall wave my privilege, and undertake to prove my negative, notwithstanding the opinions of all the logicians from Aristotle to the thrice renowned Slawkenbergius, that a negative is incapable of being proved. It is my task, then, to show that Mr. Jackson never has made the imputation above alleged.

In the outset, I have the misfortune to find myself compelled to sue for a favour to my adversaries; I have to ask of them a concession. I am quite aware, that I am asking what was never yet, perhaps, asked of them, certainly never yet granted by any cavalier among them. But on this occasion I will for once appeal to the candour of the other side, and in return for the innumerable timorous admissions, the injudicious acknowledgments, the injurious concessions which they have been receiving from the federalists in Congress, during the discussion of Gile’s *resolution*, I venture to ask one from them—I ask them, to grant me this; that the man whose letters, I am about to examine, *is not an idiot*. I do not ask them to allow him capacity; much less, that understanding so full of artifice; which they have a thousand times imputed to him; I ask only that they allow that he is a man of an ordinary share of common sense: and with this concession, the extent of my request, which will not, I think, be re-

fused me, which indeed I already suppose to be granted, I proceed to his letters for the evidence to refute completely, and for ever, the charge first advanced against him by Mr. Smith, and, at last, to the world's astonishment, and the nations disgrace, adopted by the three branches of the governments in a formal resolution.

No. 23.

The fatal Insult.

Many of the good people of this country, are, I fancy, disposed to believe, that the rupture with the British minister, ought to be dismissed from our further consideration : Congress has settled the fact, that the government was insulted by Mr. Jackson, and has pledged all the military strength of the nation, to support Mr. Madison against him.—Would it were true, that we have seen the whole of this business ; and that it were, indeed, over ;—but I very much suspect that the agitation which has for the present, partially subsided, will, ere many weeks are passed, be renewed with more violence than ever. The frigate that comes out to take Mr. Jackson home, will bring despatches, I apprehend, of a nature to revive, with tenfold interest, the questions that some may think already at rest. To whatever a devoted majority in congress may have seen fit to pledge themselves, the people of this country will want, they will demand, nay, they will have solid and convincing reasons, before *they* will pledge themselves and their fortunes, to engage in and support a war, of which no man can foresee the probable end nor foretell the probable issue. Far from believing that the rupture with the British Minister, has been so easily disposed of, I have my suspicions that we are still to see it, in a more important light than any in which it has yet been viewed. Let it be remembered that we have thus far heard but one side of the story. The official representation of Mr. Jackson to his own government, and the representation of Mr. Erskine are yet to make their appearance : The reception of the President's message in Great-Britain, and the measures taken by her in consequence of the serious charge there advanced against her sovereign, are yet to be made known. And if the curiosity of the nation has begun to slumber, something, I fancy, will come forth ere a great while, to awaken and rouse it from its repose. Impressed with these ideas, I proceed with my subject. I now propose to prove, negatively, that Mr. Jackson never did make the imputation alleged against him, for which he has been, with indignity, refused any further intercourse with the government.

The charge alleged against Mr. Jackson, is, as expressed in the terms of Giles's resolutions, that he had "*conveyed the idea that the executive of the government of the United States had a*

knowledge that the arrangement lately made by Mr. Erskine was made without competent powers ;”—in the terms of Mr. Smith’s letter to Mr. Pinckney, that “a knowledge of this restriction of the authority of Mr. Erskine [a restriction to the three conditions of Mr. Canning’s despatch] was imputed to this government, and the repetition of the imputation even after it had been peremptorily disclaimed.”

Such is the charge, but I humbly hope that if I shew that Mr. Jackson *could not* have made the imputation alleged, it will be allowed me that he *has not* made it. This I propose to do : only asking a preliminary admission that Mr. Jackson is a rational man, and endowed with such a share of common sense as to preserve him from palpable contradictions and downright absurdities.

The offence it appears, lies *in nuce*, in a nutshell ; it consists, *solely*, in his stating our government to have been possessed of a *knowledge* of certain facts, admitted on all hands to be true, but which, they say, they did not *know* to be true.

“It was never objected to him, (says Mr. Smith) that he had stated as a fact, that the three propositions in question had been submitted to me by Mr. Erskine ; nor that he had stated it, as made known to him by the instructions of Mr. Canning, that the instructions to Mr. Erskine, containing those three conditions was the only one from which his authority was derived to conclude an arrangement on the matter to which it related : The objection was, that a *knowledge* of this restriction of the authority of Mr. Erskine was imputed to this government, &c. This was so *gross an attack* on the honour and veracity of the government, as to forbid all further communications from him.”

It has already been shown, that a Minister cannot bind his Sovereign by an agreement made without instructions ; still less, in direct violation of them ; consequently, that his agreement may be disavowed : it has been made apparent, indeed it is not denied by the Administration, that the agreement made by Mr. Erskine, was an agreement made in direct violation of his instructions, consequently his sovereign had “an indisputable and incontrovertible right” to disavow it. His sovereign has disavowed it, and has assigned this identical reason for the disavowal ; and no other. Such was the sole reason given by Mr. Canning to Mr. Pinckney in London, and by Mr. Pinckney transmitted to his own government. It was a reason amply sufficient, in itself, and one that can give no just offence to the government to whom it was assigned. But now it is alleged that Mr. Jackson has gone out of his way to add another reason ; one that is not material to the justification of his sovereign, and one which is “a gross attack on the honour and veracity of the government,” to which he is accredited. Has he done so?—Has Mr. Jackson been so indiscreet ? Has he betrayed such ignorance of the real merits of his case ; such a misunderstanding of his instructions ; such weakness or such egregious folly as to mar a good cause by placing it upon such an irrelevant footing ? Certainly, I must con-

clude, that the presumption is, that he has not: and, it requires pretty strong and direct evidence to show that he has. Fortunately, all the evidence on which the charge rests, is before us, and the very act of submitting it to us, implies that we have the right to judge and that we ought to judge of it, for ourselves.

One prefatory observation more: It has been made apparent that the King of Great-Britain, was under no obligation to explain the reasons of his disavowal, further than promptly to make known to our government, through their Minister in London, that the arrangement had been disavowed because it was concluded in violation of Mr. Erskine's instructions; which information was given him accordingly, and by him transmitted to them. Consequently, they could have no right to demand any explanation of Mr. Jackson. They, however, did demand one, and in a very peremptory style; and Mr. Jackson, though under no sort of obligation to give it, yet very complaisantly, as will appear, did attempt to give it, and, in this very attempt, it was, that he committed, if at all, the gross attack on the honour of the government. I beg permission to present the following extract from a part of Mr. Jackson's first letter, which relates to this subject, as indicative of the temper and disposition of the writer, at that time.

"As to the expectation entertained here, that the explanation of His Majesty's share in this transaction should be made through me, I might content myself with simply observing, that *I was not provided with instructions to that effect, because it was known that the explanation in question had already been given. But it accords with the sentiments of his Majesty towards this country to observe also,* that he considered, that as some time must necessarily elapse between my appointment and my entrance on the duties of my Ministry, it would be *a more friendly mode of proceeding to state without delay, and through the channels I have already mentioned the motives that compelled his Majesty to disavow the agreement, than to leave the American government in uncertainty in these respects, till the unavoidably protracted period of my arrival in America. I say this in regard to the original notification of his Majesty's determination, and of the motives of it, which being already made, it could not be supposed in London that a repetition of them would be expected from me; and of course no such case has been foreseen in my instructions.* But if beyond this any incidental explanation or discussion should be wished for by this government, I came fully prepared to enter into them. I even consider them to have taken place between us. I have certainly derived great satisfaction from the several hours, which we have spent in conference upon these subjects, because they have enabled me to remove some misunderstandings, and to refute many misrepresentations, which you yourself informed me of, in regard to the conduct of the British government. I consider such mutual explanations as highly beneficial to a right understanding of the views and interest of the two countries, and I should with much pleasure have renewed them, if you had not informed me that the President had been pleased to prescribe another and a different mode of conducting our negotiations."

I detain the reader with no comments. I must confess, I can see in the above extract, nothing but mild and friendly sentiments, expressed in the style of a gentleman. If there are those who can see in it arrogance and insolence, it is not for me to en-

deavour by argument to convince them, that they see thro' a false medium.

No. 24.

Mr. Jackson's first Letter examined, with a view to discover the alleged Insult there.

I shall give the whole of the only passage, in this letter, which contains a syllable, that, by any construction, can be supposed, or that has ever yet been pretended, to contain the insult charged upon Mr. Jackson. The following is the passage, in the order it stands.

"It was not known, when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to a despatch, addressed, on the 20th of April, to his Majesty's Secretary of State for Foreign Affairs, I find that he there states, that he has submitted to your consideration, the three conditions specified in those instructions, as the ground work of an arrangement, which, according to information received from this country, it was thought in England might be made, with a prospect of great mutual advantage. Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the conditions and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you, that these latter were an equivalent for the original conditions, but the very act of substituting evidently shows that these original conditions, were in fact, very explicitly communicated to you, and by you, of course, laid before the President for his consideration. I need hardly add, that, the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint, on the part of the American government, viz. that, under such circumstances, his Majesty had an undoubted and uncontrovertible right to disavow the act of his minister. I must here allude to a supposition which you have more than once mentioned to me, and by which, if it had any, the slightest foundation, this right might have been in some degree affected. You have informed me, that you understand that Mr. Erskine had two sets of instructions, by which to regulate his conduct;—and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, Sir, solemnly to declare to you, and through you to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter minister, and which was read by the former to the American minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates."

In examining this extract, I shall take a liberty with the arrangement, by inverting the order; which, without altering the sense, will, I think, enable us to comprehend the passage more strongly and correctly, than to take it as it stands.

To begin with the simple reasons offered for the disavowal :

"I need hardly add, that the difference between these conditions [that is the conditions specified in Mr. Erskine's instructions,] and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation ; nor need I draw the conclusion, which I consider as admitted by an absence of complaint, on the part of the American government, viz. that *under such circumstances, his Majesty had an undoubted and uncontrovertible right to disavow the act of his minister.*"

Here is the precise reason assigned for the disavowal, which the law of nations justified the King in assigning, and which had been assigned to Mr. Pinckney ; namely, *the departure of his minister from his instructions.* But what is coupled with this reason, in the same paragraph ? The paragraph begins in the following manner :

"It was not known when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you, *in extenso*, his original instructions."

Of course, Mr. Jackson could not have come to this country prepared to reproach the government with having concluded an arrangement with a minister *known* to be restricted from making it.—What comes next ?—Now it is, that Mr. Jackson is to speak upon the point in question. It is now, that he is to speak out.—He has arrived at the point in issue. He is to say whether Mr. Erskine did or did not make such communication to the government ; in other words, whether Mr. Erskine did or did not show his instructions *in extenso*. And what *does* Mr. Jackson say ? He says expressly—" *It now appears that HE DID NOT.*"—Mr. Jackson, then, not only refrains from charging the government with having a *knowledge* of the restrictions imposed on Mr. Erskine ; but he volunteers his testimony in their behalf, and acquits them of having had such *knowledge*.

In conformity with this statement, and at direct enmity with any different one, is found the following passage in the conclusion of the same paragraph :

"I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any, the slightest, foundation, this right [to disavow] might, perhaps have been, in some degree, affected. You have informed me that you understood that Mr. Erskine had two sets of instructions, by which to regulate his conduct : and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, *solemnly to declare to you, and through you to the President, that the dispatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter minister, and which was read by the former to the American minister in London, is the ONLY dispatch, by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with this country on the matter to which it relates.*"

Had Mr. Smith seen Mr. Erskine's instructions *in extenso*, he must have seen that Mr. Erskine had no latitude of conduct allowed him ; but that his instructions confined him expressly to the three conditions. Still, it was possible that there might have

been *another set* of instructions, dispensing with these, and Mr. Smith had stated to Mr. Jackson, that he had supposed there was such other set. But does Mr. Jackson insinuate that, even in his opinion, Mr. Smith had had no reason for such supposition? On the contrary, he impliedly admits his veracity, by *informing* him, in a solemn manner, that there was no such second set.—Mr. Jackson, then, has, explicitly, admitted, first, that Mr. Erskine had not shewn his instructions in full, to Mr. Smith, and second, impliedly, that, as to the three conditions, it was *not known*, at the time, to Mr. Smith, that they were the *only* ones, restricting the authority of Mr. Erskine.

Having thus shown what Mr. Jackson says, as to those two important facts, and which turns out to be admissions on the side of Mr. Smith, instead of imputations against him, let us take up the other parts of the paragraph, and see how far he supposes Mr. Smith's knowledge to have really extended.

“In reverting to his [Mr. Erskine's] official correspondence, and particularly to a despatch addressed on the 20th of April to his Majesty's Secretary of State for Foreign Affairs, I find that *he there states*, that he had submitted to your consideration, *the three conditions specified in those instructions*, as the ground work of an arrangement which, according to information received from this country, it was thought in England, might be made, with a prospect of great mutual advantage. Mr. Erskine then reports *verbatim et seriatim*, your observations upon each of the three conditions, and the reasons which induced you to think, that others might be substituted in lieu of them.”

That in all this, thus far, there was nothing offensive, is admitted by Mr. Smith himself. “Certain it is, (says he, in his letter of the 19th of October) that your predecessor did present for my consideration, the three conditions.” And again, (in his letter of November 23d to Mr. Pinckney) “It was never objected to him (Mr. Jackson) that he had stated it as a fact that the three propositions in question had been submitted to me by Mr. Erskine.” Nor has it been pretended, that the other fact stated, to wit, that Mr. Smith had made observations on each condition, and offered reasons to induce Mr. Erskine to accept of those others that were eventually adopted, was offensive; but if it was, it must be recollected, the fact was stated, not by Mr. Jackson, but by Mr. Erskine, and only repeated by Mr. Jackson, on his (Mr. Erskine's) authority.

Lastly come the following expressions: expressions, which, on a little examination, will be found pregnant with meaning.

“It may have been concluded *between you* that these latter were an *equivalent* for the original conditions; but the very act of substitution evidently shows that these original conditions were, in fact, very explicitly communicated to you, and by you, of course, laid before the President for his consideration.”

The reader is now put in possession of every syllable in Mr. Jackson's first letter in any way alluding to the supposed *knowledge* on the part of the government. The previous quotations have abundantly shown that he *has not* imputed such knowledge

to them ; and on this last preceding quotation, I shall rely, to show that *he could not* impute it, without falling in a glaring and absurd inconsistency. Observe his words, "*it may have been concluded between you that these latter were an EQUIVALENT for the original conditions.*" In the first place, here is, obviously, an apology suggested for both Mr. Smith and Mr. Erskine ; which I confess, I should incline to consider rather in the light of a kindness than as an offence. But what is the *equivalent* here spoken of ?—What, but *other* conditions, which, though, in the opinion of the two negotiating ministers, differing in some immaterial circumstances, yet which, in reality, would be found to secure the principal object in view, as effectually, perhaps, as the identical conditions contained in Mr. Erskine's instructions. Such, and such only, can be the meaning of his words. The particular remark, then, that I mean, emphatically, to make on this passage, and to press, is this ; that this very supposition, thus suggested by Mr. Jackson, that Mr. Smith may have thought the one thing an equivalent for the other, as his (Mr. Smith's) inducement for proposing to substitute that other, necessarily implies a belief in the mind of Mr. Jackson, when making the suggestion, that Mr. Smith must have imagined, at the time referred to, that Mr. Erskine was impowered to adopt what he thus proposed to substitute. The conclusion is inevitable and impregnable : it follows, beyond the possibility of escape or evasion, that such belief on the part of Mr. Jackson, could only exist, *in exclusion of the idea* of imputing to Mr. Smith a *knowledge* that Mr. Erskine was *restricted* by his three conditions, first shewn, so that he could accept of no other.

Thus have we arrived, at length, at the position which I pledged myself to establish ; namely, not only that Mr. Jackson *had not* committed the offence charged upon him, but, that it had been rendered impossible that he *could* have committed it. It only remains to examine if Mr. Jackson has said any thing, in his second, or his third letter, in direct contradiction of himself in the first ?

No. 25.

Mr. Jackson's second Letter considered.

We have examined the first letter carefully, thoroughly, and impartially, and it has been demonstrated, that in that, where the offence is charged first to have been given, not only no such offence was given, but that it was rendered morally impossible that it could have been given. Nothing has yet been seen that wore the most distant appearance of intentional offence. Let us now take up the second letter, and see if we can find it there.

This letter, it must be remembered, is the reply to Mr. Smith's answer to Mr. Jackson's first letter : and before we open it, it may not be amiss to glance at that answer.

Far from receiving Mr. Jackson's explanation, with a temper and disposition correspondent with the friendly one indicated by him, a stately and distant manner is studiously adopted and carefully kept up throughout. I shall pass over, for the present, a direct contradiction of Mr. Jackson on another point; but, referring to the explanation of the disavowal as given by Mr. Canning to Mr. Pinckney, in London, Mr. Smith tells him,

"It is impossible to mistake the *conversations* of those ministers, for the discharge of such a *debt* to the good faith and reasonable expectations of the United States."

He finishes by asserting that

"Mr. Canning himself, after declining to recapitulate in writing what had been verbally remarked, *signified to Mr. Pinckney*, in a letter dated May 27th, that his observations *on the subject*, would be more properly made to the successor of Mr. Erskine ;"

And, with the extreme of candour, he subjoins the letter itself in refutation of his own assertion : as has been proved in a former number.*

Rejecting totally the idea of receiving the explanation by Mr. Erskine, because he had been recalled, but declaring he would have it from his successor ; and rejecting the explanation given by Mr. Jackson, because it was not sufficiently "formal and satisfactory," and for other reasons which he did not see fit to specify, Mr. Smith, rises in his majesty, and, in the name of the President, addresses himself to the British minister, in the following style ; without even the civility of a "Sir ;"

"You have been *sufficiently* apprized by my letter of the 9th, of the light in which the President views the arrangement lately made by your predecessor with this government, and of the grounds on which he has expected a *formal, and satisfactory explanation* of the reasons for the refusal of his Britannic Majesty to carry it into effect. He *persists in that expectation*, and in the opinion that *there has been given no explanation that is adequate, either as to the matter or as to the mode.*"

Considering what their own conduct had been in every thing relating to the arrangement, before, at the time, and since, and which I have taken some pains, in my former numbers to explain, the above demand, in the mouth of administration, and the language in which it is couched, certainly challenge our full admiration. If true dignity consists with asserting an unquestionable right, in firm, but decent terms, false dignity is sometimes conspicuous in putting forth demands of a doubtful right, or without right, in terms of the mock heroic. And I cannot but think that Mr. Smith, here exhibits the President, not so much in the grave and venerable character of a chief magistrate, determined on maintaining the rights of the nation, as of a little bantam cock, strutting upon his own dunghill, & ready for a quarrel.

Let us turn to Mr. Jackson's reply to this letter; and once more, look out for the insult he has been charged with, punished for, and then convicted of. The following is the only passage in his letter, in which it can have happened:

"It could not enter into my view, to withhold from you, an explanation *merely* because it had been already given, but because, having been so given, I could not imagine, until informed by you, that *a repetition of it would be required at my hands*. I am quite certain that his Majesty's government, having complied with what was considered to be the substantial duty imposed upon it on this occasion, would, had this been foreseen, *have added to the proofs of conciliatory good faith already manifested, the farther complacency to the wishes of the United States of adopting the form of communication most agreeable to them, and of giving through me the explanation in question*. I have therefore no hesitation in informing you, that his Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, *because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it.*"

Mr. Jackson had informed Mr. Smith, in their oral conferences, that he had no particular instructions to tender an explanation of the reasons of the disavowal; and *therefore*, an explanation was peremptorily *demande*d of him in Mr. Smith's first letter; he had also informed Mr. Smith, in his answer to that letter, that he was not particularly instructed to explain; and *therefore*, it was *demande*d of him again, in Mr. Smith's second letter. Mr. Jackson, however, chose not to see Mr. Smith's drift, but took upon himself to give the explanation, and he did it officially, in the extract above quoted; how much to the disturbance of his correspondent, may very easily be imagined by those who have not been inattentive observers of certain scene-shifters at Washington. What is the explanation? What are the reasons assigned for the disavowal? Precisely those which had been given by Mr. Canning to Mr. Pinckney in London; and which certainly contain *all* that is necessary to a full justification of his sovereign—*BECAUSE, it was concluded in violation of Mr. Erskine's instructions, and without authority to subscribe to the terms of it*—Not because it was *known*, at the time to Mr. Smith to have been so concluded.—Here Mr. Jackson stops, he makes no suggestion further.—This, however, was the very place, if any where, for him to impute to Mr. Smith the *knowledge* of Mr. Erskine's deficiency of powers, if he intended to give that *knowledge* a place among his reasons for the disavowal. He did not intend to give it any; he therefore said nothing about it. He stated the simple reason, and there he left it.

But was nothing else proper to be done by the party disavowing, in order to fulfil the duty imposed by the law of nations in such a case? Yes: one thing more. It was proper to show that the deviation from the conditions prescribed to Mr. Erskine was a material deviation and not a frivolous one: in the words of Vattel, that his reasons were "strong and solid." Accordingly Mr. Jackson does so; in the following manner:

“Those instructions, *I now understand by your letter*, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, *in substance*, made known to you; no stronger illustration therefore can be given of the *deviation* from them which occurred, than *by a reference to the terms of your agreement*.”

Here Mr. Jackson reminds Mr. Smith that he had himself admitted in his letter, that he was already acquainted with the *substance* of Mr. Erskine's instructions, and consequently need not now be informed that the conditions obtained were a wide deviation from the conditions he was instructed to obtain. But this word *substance* sticks with some gentlemen. They think that to impute a knowledge of the *substance*, is to impute a knowledge of the despatch *in extenso*. That the expression is a perfectly proper one, would appear from an examination of the despatch containing the instructions; since it would be seen that the *three conditions* were, unquestionably, the *substance* of it: take them away and you leave nothing behind: still, strictly speaking, the despatch was not presented *in extenso*; and an examination of Mr. Smith's letter of the 19th, to which Mr. Jackson refers, as well as of his own, of the 11th, to which he also refers, will show the expression to be perfectly harmless. The letter of the 11th has been examined and shown to contain nothing objectionable: It is therefore unnecessary to recur to that again. Let us, then, turn to Mr. Smith's letter. Here are Mr. Smith's words—

“Certain it is, that your predecessor *did* present for my consideration, *the three conditions* which now appear in the printed document.”

Now, by no rule of construction, ever heard of, can expressions, in any instrument, referring for their meaning to an antecedent instrument, be stretched beyond their original import. The words, therefore, here used, viz. *those instructions in substance*, can only, be understood as exactly coextensive with those used by Mr. Smith, in his letter, viz. *the three conditions*. And thus all offence disappears, once more.

One other extract from Mr. Smith's answer, before we finish with Mr. Jackson's second letter. In this answer, Mr. Smith says:

“The declaration “that the despatch from Mr. Canning to Mr. Erskine of the 23d of January is the *only* despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates” is *now, for the first time, made* to this government. And I need hardly add, that *if that despatch had been communicated* at the time of the arrangement, *or*, if it had been known that the *propositions* contained in it, and which were at first presented by Mr. Erskine, *were the only ones*, on which he was authorised to make an arrangement, the arrangement would not have been made.”

It appears that Mr. Smith had placed his dependence on one of two grounds: either that the January despatch, would be found, if seen *in extenso*, to contain some curious clause, dispensing with the three conditions; or that Mr. Erskine had another set of instructions dispensing with them. I suspect, however, I might venture to suggest, without violating any law of charity, that if

Mr. Jackson had not informed Mr. Smith that *Mr. Erskine had stated in his official despatch to the King*, that he had submitted the three conditions to Mr. Smith, we should never have heard of the concession made by the latter, that "certain it was that Mr. Jackson's predecessor had presented for his consideration those three conditions." But the concession has been made; and to elude the force of it, Mr. Smith turns about, very much like a child in a passion, with a "*what then?*" Certain it is, he says, I did see them, and *what then?*—Hear him.

"And what, sir, is there in this to countenance the conclusion you have drawn in favour of the right of his Britannic Majesty to disavow the proceeding?—Is any thing more common in public negotiations than to begin with a higher demand, and, that failing, descend to a lower?—To have, if not *two sets* of instructions, two, or more than two grades of propositions *in the same set* of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable."—

Take the mild, pertinent and conclusive answer.

"Nothing can be more notorious, than the frequency with which, in the course of a complicated negotiation, Ministers are furnished with a gradation of conditions, on which they may be successively authorised to conclude. So common is the case which you put hypothetically, that, in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorised agreement concluded here, inasmuch, as, in point of fact, *Mr. Erskine had no such graduated instruction.*"

Thus, one ground of Mr. Smith's dependance is cut from under him, and in a way to give no room for complaint. He now knows, (whether for the first time, is not, here, very material,) he now certainly knows that Mr. Erskine had no graduated instructions, and that the despatch of January, contained nothing dispensing with the three conditions——Mr. Jackson finishes his answer to the above petulant quere of Mr. Smith, thus:

"You are already acquainted with that [despatch] which was given; and I have had the honour of INFORMING you that it was *the only one* by which the conditions on which he was to conclude were prescribed. So far from the terms, which he was actually induced to accept, having been contemplated in that instruction, he himself states *that they were substituted by you in lieu of those originally proposed.*"

And thus, his other ground of dependance is also cut from under him. He now knows, also, that Mr. Erskine had "but one set of instructions, by which the conditions were prescribed to him for the conclusion of an arrangement on the matter to which it related." How does he know it? He is *informed* of it; solemnly, officially *informed* of it by Mr. Jackson. Is it then, still pretended, that Mr. Jackson meant to level an insult at Mr. Smith by charging him with having a *knowledge* of the identical fact, with which, he, at that very moment was solemnly and officially making him acquainted? Yet it is only by reconciling these two opposite and conflicting suppositions, that any ground whatever, can be found, on which to rest this branch of the accusation.

Finally, Mr. Jackson, in order to provide against the possibility of mistake, and to exhibit to Mr. Smith, at a glance, a view of the whole ground, finishes his second letter with the following recapitulation of all he had advanced—These are his words :

“ I beg leave briefly to recapitulate the substance of what I have had the honour to convey to you as well in a verbal, as in written communications.

“ I have informed you of the reasons of His Majesty’s disavowal of the agreement so often mentioned ; I have shown them, in obedience to the authority which you have quoted, to be both strong and solid, and such as to outweigh, in the judgment of his Majesty’s government, every other consideration which you have contemplated ; I have shown that *that agreement was not concluded in virtue of a full power, and that the instructions given on this occasion, were violated.*”

This, then, is the substance of all Mr. Jackson had said, or had meant to say, and is it not a little singular, that, when undertaking to recapitulate the substance of *all* that he had advanced, Mr. Jackson should not even suggest the most distant intimation of so important a fact as that which he is accused with having studiously made an essential part of his case?—the very fact on which hangs “ the gross attack on the honour and veracity of the government ?”

He has finished his second letter, then, and not a line in it betrays the least marks of irritation, nor even of a temper at all ruffled ; much less does it discover that violent anger and that deep resentment which, alone, lead to intentional insult.

No. 26.

The Arrangement in relation to the Chesapeake considered.

We have examined the first and the second letter, and we have examined them, in vain, to find in any part of them, the “ insulting insinuations” they are alleged by the partisans of the administration to contain, “ We have been at that very point of the element, from which they were sure to issue. Yet the sky has been completely clear. Not one black speck has been to be seen within the whole compass of it.” And, therefore, we are fully convinced that the *insult* has not yet been given. But, perhaps, what we have missed hitherto, we shall find in the last letter that finished the correspondence on the part of Mr. Jackson, or in his *circular* or explanatory note. They shall all be carefully examined.

But here I must beg the reader’s indulgence to permit me to quit, for a single number, the topic we are engaged with, to take up another, and quite a distinct one ; viz. that promised in the title to the number. The truth is, *the affair of the Chesapeake* still remains behind, and is the only topic of all those introduced in Mr. Smith’s first letter, that does remain behind ; which letter, we have dismissed some time since, but which, nevertheless, can-

not be considered as having been completely answered, while so important a part of it remains untouched. The truth is, no place has yet offered itself, where this topic could have been so well introduced, as it can here. With the reader's acceptance of this explanation, then, I proceed to dispose of it.

In order that those, who have not leisure for the comparison and studied examination of complicated documents, may have, at a *coup d'oeil*, every thing belonging to the point in question, I shall bring together all the extracts from the different letters relating to it; accompanied by such observations as may appear pertinent.—We must begin by going back to the letter of the 9th; now become somewhat celebrated.

“The president has learnt with no less surprise than regret, (says Mr. Smith,) that in your several conferences with me you have stated,”

2d. “That in the case of the *Chesapeake*, your instructions only authorise you (without assigning any reason why the reasonable terms of satisfaction tendered and accepted, have not been carried into effect) to communicate to this government a note tendering satisfaction, with an understanding that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this government; and that the signing and delivery of your note, and of the answer of this government should be simultaneous.”

Here is a studied attempt to turn, what had been proposed by Mr. Jackson, as a mere matter of form in conducting the business, into a demand of humiliating concessions from the government. Mr. Jackson answers it in the following passage; from his letter of the 11th of December.

“I will nevertheless avail myself of that mode which he still permits, to repeat to you that his Majesty has authorised me, notwithstanding the ungracious manner in which his former offer of satisfaction for the affair of the *Chesapeake* was received, to *renew* that which Mr. Erskine was *instructed* to make. You have said that you so fully understood the particulars of that offer, that I deem it unnecessary to recapitulate them here: I regret that, since they were so clearly understood by you, you should not yet have been enabled to state to me, either in our personal communications, or in the letter which I am now answering, whether they are considered by the President as satisfactory, or whether they are such as he ultimately means to accept. You seem not so distinctly to have understood the *form of proceeding in this affair*, which I took the liberty of suggesting, as likely to lead to a satisfactory result, *without however, at all precluding any other method which might appear preferable to you*. My proposal was, not to communicate a note tendering satisfaction, but to agree, before hand, upon the terms of a declaration on the part of his Majesty, *which should actually give the satisfaction*, (the conditions of which I informed you that I was authorised to carry into immediate execution) and of a counter declaration to be signed by you on the part of the United States for the purpose of accepting such satisfaction. I expressly stated that this interchange of official documents was not meant by me as the means of conveying to each other our respective sentiments: *that* I understood to be, as is usual, the object of our conferences; and I imagined that the papers to be signed by us, respectively, would be the result of those sentiments so communicated, and that by being reciprocally corrected and modified, and simultaneously delivered, they would form one compact by which the two countries would be equally bound.”

Is not this sufficiently plain, and is it not, too, very conciliatory? But it appears that Mr. Jackson's proposal, either as to mat-

ter or form, had not received, in all this time, even the ceremony of an answer, of any sort. Mr. Jackson proceeds thus :

" This course of proceeding is conformable to the practice of the courts of Europe on similar occasions. *You did not at the time appear to object to it ; you even requested me to come the next day, prepared with a draft or project of a paper, framed in pursuance of these ideas :* and although you desired to refer the subject to the President for his approbation, I do not find in your letter either an expression of his sentiments upon it ; or the substitution of any other form that might be more agreeable to him, than the one which I have proposed."

It is very clear if the course proposed was the ordinary one, in such cases, it could not justly be regarded as objectionable. And that it did not appear in such a light to Mr. Smith, himself, is also clear, for he desired Mr. Jackson to come the next day, with a draft of it, in writing. Mr. Jackson concludes, not by mentioning, but with peculiar delicacy, by merely *alluding* to certain exceptionable expressions made use of by Mr. Smith on a former occasion, which had rendered it impossible to ratify any act in which they were used.

Let us now hear Mr. Smith's answer.

Having expressed his regret (regret of course !) that Mr. Jackson had not been more explicit in his terms, as to the affair of the Chesapeake, and declared, that he was authorised to receive any formal explanation he had to make, he winds up thus :

" As you have, at the same time, been pleased to say that his Britannic Majesty had authorised you to renew the offer of satisfaction which Mr. Erskine was instructed to make, it was also naturally expected that you would, in your letter, have stated with precision in what the offer differed from the reparation solemnly tendered by Mr. Erskine, and accepted by the United States, and that you would have shown in what the reparation thus tendered differed from his instructions."

To which Mr. Jackson replies, first, in his letter of the 23d October generally, but in reference " to both parts of the arrangement," as well to the Chesapeake, as to the Orders in Council, that " the terms accepted by Mr. Erskine were in direct violation of his instructions." But four days afterwards, he delivered the following note :

Mr. Jackson to Mr. Smith.

WASHINGTON, October 27th, 1809.

SIR,

Finding, by your letter of the 19th instant, that, notwithstanding the frequent statements made by me in our conferences of the terms of satisfaction which I am empowered to offer to this country for the unauthorised attack made by one of his Majesty's ships of war upon the frigate of the United States, the Chesapeake, I have not had the good fortune to make myself distinctly understood by you, I have the honour to enclose herewith a paper of memoranda, containing the conditions, on the basis of which I am ready to proceed to draw up with you the necessary official documents in the form proposed in my letter of the 11th instant, or in any other form upon which we may hereafter agree.

I have the honour to be, &c.

F. J. JACKSON

The Hon. Robert Smith, &c. &c. &c.

The President's *proclamation* of July, 1807, prohibiting to British ships of war the entrance into the harbours of the United States, *having been annulled*, his majesty is willing to *restore the seamen taken out of the Chesapeake on reserving to himself a right to claim in a regular way, by application to the American government, the discharge of such of them (if any) as shall be proved to be either natural born subjects of his Majesty, or deserters from his Majesty's service.*

His Majesty is willing to make a provision for the families of such men as were slain on board the *Chesapeake*, in consequence of the unauthorised attack upon that frigate, provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of his Majesty, or a deserter from his Majesty's service."

For the present, I pass by the terms of the offer, to notice the manner in which it was received by Mr. Smith.

"While you have deemed it proper to offer an explanation (says he) with respect to the disavowal of *one part* of the arrangement, I must remind you that there is not to be found in your letter any like specification of the reasons for the disavowal, nor particularly is it shown, that instructions were violated, as to the *other part*, viz. the case of the *Chesapeake*."

If Mr. Smith was unable to perceive the difference between the conditions now offered, and those adopted in the arrangement with Mr. Erskine, one would suppose that there could be no difficulty in acceding to them, at once; if the difference was material and apparent, then it is equally certain, that, Mr. Smith could have demanded "the specification of the reasons," for no valuable purpose. Mr. Jackson, however, chose not to see this low management, and he therefore hastened once more to attempt to leave no possible room for even affected doubts. In a letter of November fourth, he says:

"When I informed you that the agreement concluded here in April last, had been framed in deviation from the instructions given for the occasion, *my explanation was intended to apply to both parts of that agreement.* That nothing required by the most scrupulous accuracy, may be wanting, I now add, that the deviation consisted in not recording the official documents signed here, the abrogation of the President's Proclamation of the 2d of July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ult."

The only notice ever taken of this is found in the letter to Mr. Pinckney of the 23d of November, in which Mr. Smith, speaking of the *Chesapeake*, says:

"His proposal had neither been preceded by, nor accompanied with the exhibition of other commission or full power: Nor, indeed, has he ever given sufficient reason to suppose that he had any such full power to exhibit in relation to this particular case."

The rudeness of thus directly calling in question Mr. Jackson's veracity as to his powers, after being officially assured of their existence, and of his readiness to produce them in exchange, has been before noticed, and I proceed to remark, that this is the first time, in diplomatic history, that an offer to adjust a point in controversy between two nations, was ever evaded and got rid of, by an objection that the offer had not been preceded by, nor accompanied with, an exhibition of a full power by the Minister making the offer. Full powers are necessary to *conclude a treaty*,

and there is not only no departure from propriety in calling for an exhibition of them, previous to signing, but it is, uniformly, the established usage to do so: the solitary case of Mr. Erskine excepted.—Again, Mr. Smith says:

“But proceeding to the proposal itself, it is to be kept in mind that the conditions forming its basis, are the very conditions for the deviating from which Mr. Erskine’s adjustment was disavowed.”

Unfortunate Mr. Jackson! Whether you indicate your readiness to *receive* proposals or whether you *make* proposals, you are equally sure to give offence. You can neither advance nor retreat, nor stand still, without offending. *If you drink below, you are charged with muddying the stream; and if you allege that that is impossible, because you drink below, you are torn to pieces because you gave an insult before you were born.**

Mr. Smith proceeds:

“Considering then the conditions in the proposal as an ultimatum, in what light are we compelled to view such an attempt to repair the outrage committed on the frigate Chesapeake, and to heal the disappointment produced by a disavowal of a previous equitable reparation?”

And again:

“It is *truly astonishing*, that with a knowledge of these facts, such a *pretension* should have been made a *sine qua non* [*an indispensable condition*] to an act of plain justice already so long delayed.”

When Mr. Smith thus attributes to Mr. Jackson’s first proposal, without having made the least attempt to induce him to waive it, that it contains an *ultimatum, sine qua non* (indispensable) conditions, he remembers to forget all that he had advanced in his letter of the 19th of October, when attempting to apologise for himself in concluding with an unauthorised agent, after he had been made acquainted with the conditions in his instructions. Then, he had not the least difficulty in saying:

“Is any thing more common, in public negotiations, than to begin with a higher demand, and that failing, to descend to a lower? To have, if not two sets of instructions, two, or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible in case the most desirable should not be attained? This (says he) must be obvious to every understanding and is confirmed by universal experience.”

Proposals, in the mouth of Mr. Jackson, are no sooner received, than they are considered an *ultimatum, sine qua non* conditions; but precise conditions, coming from Mr. Erskine, and solemnly inserted in an official despatch, are but one of several grades of propositions, to be changed or abandoned at discretion;—while, only a suspected *insinuation by implication*, that he was known to be restricted by them, (an insinuation, certainly never made, and never intended,) is regarded as such a “gross attack on the honour and veracity of the government” as to produce a rupture with the representative of a friendly foreign pow-

er, followed by the legislative act of a zealous, patriotic Congress, pledging themselves that seven millions of people should rouse to arms in support of the President against the solitary individual, who had thus been so extremely unfortunate as to commit an insult unwittingly, and without his own knowledge or consent.

We come now to consider the terms offered by Mr. Jackson as the basis of a settlement of the *affair of the Chesapeake*; an affair so long, and so happily kept out of the reach of adjustment; and, all the affecting particulars of which, are once more brought forward by the affecting pen of Mr. Smith, arrayed afresh in vivid horrors, and rendered most magnificently tragical! What are the terms offered by Mr. Jackson?

First, the proclamation having been annulled and that fact recited, the king offers to

“Restore the seamen taken out of the Chesapeake, on reserving to himself a *right to claim*, in a regular way, by application to the American government, the *discharge* of such of them, (if any) as shall be proved to be either natural born subjects of his Majesty, or *deserters* from his Majesty’s service.” (The second member of the proposition is not repeated, as it necessarily follows the fate of the first.)

Is this *claim* admissible?—I answer—1st. If it be true, as stated by Mr. Jefferson in his message, that “it had been previously ascertained that the seamen demanded were native citizens of the U. States,” then, the above is a mere empty claim amounting, in fact, to nothing. But candour compels me to acknowledge that it is not true. And thus a second answer becomes necessary. I say then—A right to *claim* does not necessarily imply an *obligation* to deliver. Thus we, on our part, constantly *claim* our seamen found in the British service. They, on their part, either give them up, when it is discovered that they came into the service, by compulsion; or they consider themselves under no obligation to deliver; and allege as a reason, against yielding to the claim, that the man is domiciled or married in the country, so as to become subject to the laws of impressment; or, in case of seamen leaving our merchant vessels, that they have entered voluntarily, and have taken the King’s bounty. So, on our part, it would be competent to meet a similar *claim*, with similar reasons for a refusal; unless indeed, the executive has adopted some regulation dispensing with our right. And that the executive *has* adopted a regulation to this effect, appears from Mr. Madison’s letter, when Secretary of state, to Mr. Pinckney. But, first, it is necessary to observe, that the *claim* must be taken according to the fair and literal meaning of its terms, viz. that the seamen shall be *discharged*; not *given up*: that is to say, *discharged from service on board our public ships*. On this very point, Mr. Madison in the above letter, dated April 4th, 1808, says:

“You will find by a passage in Mr. Rose’s reply of March 17th, that the British government does not maintain the principle, that the obligation of the

United States extends beyond the *discharge of deserters from the public service*: and by an order of the navy department here, already carried into execution, of which a copy is inclosed, that it has been lately decided, that *no foreign seamen, whether deserters or not, shall serve on board our ships of war.*"

Such then is the *claim* on the part of Great Britain, and such is the implied admission of its correctness on the part of the United States. There is no collision between them on the point. And that Mr. Jackson's note reserving the right to exercise their claim, was not in the first instance considered offensive or at all objectionable by Mr. Smith, is in evidence: for, Mr. Jackson states, and Mr. Smith does not deny it, that he, Mr. Smith "did not at the time, appear to object to it, but even requested Mr. Jackson to come, the next day, "with a draft or project of a paper, framed in pursuance of his ideas."—And truly, while Captain Bennet who pursued a deserter into the very territory of Great Britain and there mortally wounded him, continues to wear his sword, I should have supposed the administration would have been a little tender on the subject of deserters. However, as we have already seen, Mr. Smith, in his letter to Mr. Pinckney, takes a very lofty stride indeed, declaring it was "*truly astonishing*" that a *pretension* to claim the "discharge of deserters from the public service" should have been advanced, at all, on the part of Great-Britain!!

When shall we cease to wonder at the candour, fair-dealing and love of truth which so eminently distinguish every part of Mr. Smith's share of this correspondence?—Or shall we express our admiration at the assurance; our astonishment at the endless tergiversations, our amazement at the shifting attitudes of meanness, to which he has such unblushing recourse?

No. 27.

Mr. Jackson's Third Letter.

We approach the termination of our labours. And, I trust, that, in winding up the task I assigned myself, and in the undertaking of which, I am not conscious of having been influenced by any motive but the good of my country, I shall not be found to swerve from that strict regard for truth, candour and impartiality, in which, I hope, these numbers have in no instance been deficient.

Mr. Jackson finished his second letter, with declaring, in language the most friendly and respectful, that he came to this country the messenger of peace and amity. Having recapitulated, in a brief and plain manner, what had been the substance of his communications, since his arrival, both oral and written, and repeated a third time, the explanation of the King's reasons for disavowing the arrangement, he proceeds thus:

“Beyond this point of explanation, which *was supposed to have been attained*, but which is now given by the present letter, *in the form understood to be most agreeable to the American Government*, my instructions are prospective; *they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a REAL RECONCILIATION of ALL DIFFERENCES may be SUBSTANTIALLY founded*; and they authorise me, *not to renew proposals which have already been declared here to be unacceptable*, but to receive and discuss *any proposal made on the part of the United States*, and eventually to *conclude a convention between the two countries*.”

Tell me, men of impartial minds, and unperverted understandings, are these the sentiments, is this the language of a friend or a foe?—Is it the language of a man sent to this country by his government to insult our own?—Is it the language of ill temper, of irritation, of insolence, determined, at all events on a quarrel?—Is it not the frank and open and honest language of a man, commissioned by a friendly government, to heal all old differences, and to place on a stable foundation the relations between the two countries?—Of a man, who came with the declared intention, to take up his permanent residence among us; bringing with him his wife, his children, and a large family?—Or is the good sense of the American people always to be spell-bound by those wizard who have so long paltered with us?—And are we to be forever cheated out of our credulity, and forever bantered and juggled out of our confidence?—I hope not—I cannot but think better of my countrymen. Let us now hear Mr. Smith’s answer, and I beg the reader’s attention to its candour and its courtesy.

“Although the *delay*, and the apparent *reluctance* in specifying the grounds of the disavowal of the arrangement with respect to the Orders in Council, do not correspond with the course of proceeding deemed *most becoming the occasion*; yet, as the explanation has *at length* been thus made, it only remains, as to that part of the disavowed arrangement, to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal.”

What delay; and what reluctance? The answer to Mr. Smith’s letter of the 9th, was written on the 11th, and the answer to that of the 19th, on the 23d; which was answered by Mr. Smith only on the 1st of November. Thus, Mr. Smith takes eight days to acknowledge the first letter, that had been acknowledged in two; and he takes eight days to acknowledge the second letter, that had been acknowledged in four; and now he has the assurance to complain of Mr. Jackson’s delay.—And what reluctance? Mr. Jackson, when deprived of one of the essential rights of a public minister, by being refused any further oral intercourse, had waived his privilege of suspending his functions till he could hear from his sovereign, because he was apprehensive that “a delay might be detrimental to the public service;” and he had instantly taken upon himself, though not specially instructed so to do, to give Mr. Smith the explanation asked for, and to repeat it in every form of civility, till it could no longer be refused. He indeed did condescend to accept it, but at the same time he undertook to chide Mr. Jackson for his delay and reluctance. Nor does

it escape remark, that, along with this churlish acceptance, and as part of the same sentence that contains it, Mr. Smith takes care to couple a most perverse misrepresentation, both of Mr. Jackson's oral conferences, and of important parts of his letters.

"It being understood (Mr. Smith continues) at the same time that *his Britannic Majesty perseveres in requiring, as indispensable conditions*, on the part of the United States, an entire relinquishment of the right to trade with enemies' colonies, and also permission to the British navy to aid in executing a law of Congress; pretensions which cannot but render abortive all proposals whatever upon this subject, whether made by the United States, or by his Britannic Majesty."

This instance of dishonesty has been so often exposed, that I pass it over here; and proceed to the last paragraph in the letter; the other parts of it having already been disposed of.

Having demanded an exhibition of Mr. Jackson's full powers, as a preliminary to negociation; (a procedure utterly unprecedented and unwarrantable,) Mr. Smith concludes his letter thus:

I abstain, sir, from making any particular animadversions on several *irrelevant and improper* allusions in your letter, *not at all* comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your *repetition of language implying a knowledge* on the part of this government that the instructions of your predecessor did not authorise the arrangement formed by him. After the *explicit and peremptory asseveration* that *this government had no such knowledge*, and that with such a knowledge, no such arrangement would have been entered into, the view, which you have again presented of the subject, makes it my duty to apprise you, that *such insinuations are inadmissible in the intercourse of a foreign minister with a government that understands what it owes to itself.*"

What sort of language is this?—Is it language fit to be used between two ministers, equally representing two independent governments?—Or is it the haughty language and the insolent demeanour of a superior to his inferior?—I submit it to every man of decent manners, whether if one gentleman should accost another in the terms adopted in the beginning of this note, and tell him that he had been guilty of "improper allusions," he would not stand a very great chance of receiving a personal chastisement on the spot? And if he escaped such a return for his insolence, would it not be owing entirely to the unmerited forbearance, or the just contempt of him whom he had thus insulted?

But let us briefly analyze this paragraph.

What does Mr. Smith mean by "a language *implying* a knowledge?"—The only language in Mr. Jackson's letter, relating to the subject, was that which we exposed to a severe scrutiny in a late number; and which consisted, first, in reminding Mr. Smith of an acknowledgment made in his own letter, of October 19th, that Mr. Erskine's instructions *in substance*, in other words, *the three conditions*, were made known to him; second, in reminding Mr. Smith, that he (Mr. J.) had had the honour to inform him, (Mr. S.) that M. Erskine had *but one set* of instruc-

tions, by which those conditions were prescribed.—This is the whole : every word relating to the subject.

Again : what does Mr. Smith mean by “the explicit and peremptory *asseveration* that this government had no such knowledge, and that, *with* such knowledge, no such arrangement would have been entered into?” By turning back to his letter of the 19th of October, we shall find all he could possibly allude to. It is contained, if at all, in the following passage :

“The declaration “that the despatch from Mr. Canning to Mr. Erskine of the 23d of January is the *only* despatch by which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement on the matter to which it relates,” *in now, for the first time, made to this government.* And I need hardly add, (says Mr. Smith) that if that despatch had been communicated, at the time of the arrangement, or if it had been known, that the propositions, contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorised to make an arrangement, the arrangement would not have been made.”

This is all that Mr. Smith could possibly have alluded to, as containing “the explicit and peremptory *asseveration*.”

If we look at it again, we shall see, that it consists of but two sentences ; and that the last sentence, instead of “*asseveration*,” is merely a statement of the consequences that would have happened, if the propositions contained in that set of Mr. Erskine’s despatches for the settlement concerning the orders in council, had, at the time, been known to be the only one relating to that business. The *asseveration* then, the “explicit and peremptory *asseveration*,” as it is called, must be found, if any where, in the first sentence. It is there ; and it consists in this, viz. “the declaration that the despatch from Mr. Canning, &c. is now (Oct. 11th) *for the first time, made known* to this government.” So far as concerns Mr. Jackson, all that is necessary to be observed, is, that he has nowhere denied the fact, thus asserted. He left the denial to stand just as he found it ; and therefore, there is not the shadow of pretence for charging him with having insinuated any thing to the contrary. But, so far as relates to Mr. Smith, I have something more to say.—Let me beg the readers attention to the following extracts from the letters of Mr. Pinckney to Mr. Smith.

“I suggested, [to Mr. Canning,] that it would be well (in case a special mission did not meet their approbation,) that the NECESSARY POWERS, *should be sent to Mr. Erskine.*”

There is no date to this letter, but circumstances combine to show it was written January 23d, 1809. In compliance with the last suggestion, Mr. Pinckney, in his next letter, dated May 18th, wrote thus ;

“Mr. Canning proceeded to inform me that in consequence of these representations, some parts of which he said I had myself confirmed in two conversations in January, he had framed and transmitted to Mr. Erskine *two acts of instructions*, dated the 23d of that month, but not forwarded till some time afterwards ; the first of which, related to the business of the Chesapeake :

and the second, to the Orders in Council, and the proposed commercial arrangement."

The first letter must have been transmitted by Mr. Oakley, and consequently was received previous to entering on the arrangement. The last letter, dated in May, must have come to the hands of the government about two months before the arrival of Mr. Jackson in this country. On the 11th of Oct. Mr. Jackson, knowing nothing of what Mr. Pinckney had thus communicated, informed Mr. Smith, of the fact, *that the set of instructions by which the conditions were prescribed, [the second] was the only set relating to that matter; that is, the matter of the orders in council:* And Mr. Pinckney in May, had told him that the *other set* [the first] (of the existence of which he then informed him,) related only to the *Chesapeake*.—Yet, marvellous to behold! on the 19th of October, Mr. Smith declared to Mr. Jackson, that the information just received of the second set was *then, for the first time*, made to this government.—Yet, in Mr. Smith's letter to Mr. Pinckney of the 23d of Nov. last, he declares, and the declaration is before this time published in the English newspapers, that—"There was not the *slightest ground for supposing* that Mr. Erskine, though confessedly instructed to adjust this very case of the Chesapeake, was furnished *with any authority distinct from his CREDENTIAL LETTER*"!!!—Alas! and well-a-day! for that "PROBITY which no man of equal rank, unshielded by privilege, dare question"! By the blood of the Mirabels," it is a sad and a wonderous pity!—Little did Mr. Smith suspect when he was hazarding this assertion, in October, that Mr. Pinckney's letters *were so soon to be dragged before the public!!!*

Mr. Jackson's answer to Mr. Smith's extraordinary letter of Nov. 17, only remains to be considered.

Mr. Jackson had a duty to perform to his sovereign, whose representative he was, and to himself, as well as to the government to which he was accredited. He answered the passage last quoted, in the following manner:

"I am concerned, sir, to be obliged a second time to appeal to those principles of public law under the sanction and protection of which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between Ministers; and one at least, of the epithets which you have thought proper to apply to my last letter is such as necessarily abridges that freedom. That any thing therein contained may be *irrelevant* to the subject, it is of course competent in you to endeavour to show, and as far as you succeed in so doing, in so far, will my argument lose of its validity—but as to the *propriety* of my allusions, you must allow me to acknowledge only the decision of my own Sovereign, whose commands I obey, and to whom alone I can consider myself responsible. Beyond this it suffices that I do not deviate from the respect due to the government to which I am accredited."

A noble answer, and full of dignity!—An answer every way worthy of his sovereign and of himself.—He goes on thus:

"You will find, that, in my correspondence with you, I have *carefully* avoided drawing conclusions that did not *necessarily* follow from the premises advanced by me."

The premises advanced by Mr. Jackson, and the conclusions drawn from them, were those only, in his letter of October 11th, where he says,

"I need hardly add that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the *conclusion*, (which I consider as admitted by all absence of complaint, on the part of the American government,) viz. that under such circumstances, *his Majesty had an unqualified and incontrovertible right to disavow the act of his Minister.*"

And was there any thing offensive in this?—Certainly not—He finishes in the following manner:

"And least of all, should I think of uttering an *insinuation*, where I was unable to substantiate a *fact*."

As if he had said,

"Sir, I disdain to utter an *insinuation* in any case where it is not in my power to establish facts—Such conduct would be unworthy a gentleman, and consequently cannot be mine. I have *insinuated* nothing."

"To *facts*, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of his Majesty's government is called in question, to vindicate its honour and dignity, in the manner that appears to me best calculated for that purpose."

The only facts stated by Mr. Jackson and "adhered to," were two; first, that Mr. Smith *had seen*, as he had acknowledged he had, *the three conditions* contained in the despatch; and secondly, that *this was the only despatch that Mr. Erskine had for the arrangement of the matter to which it related*. That in adhering to *them* he had committed no offence, is afterwards confessed by Mr. Smith himself, in his letter to Mr. Pinckney. Thus we have disposed of the last letter.

No. 28.

The Rupture, and Explanatory Note.

Mr. Smith, in answer to the very proper and dignified reply of Mr. Jackson, considered in our last, wrote Mr. Jackson, four days afterwards, as follows:

"Finding that in your reply of the 4th instant, you have used a language which cannot be understood, but as reiterating and even aggravating the same gross insinuation, [that this government had a knowledge that Mr. Erskine's instructions did not authorise the arrangement] it only remains, in order to preclude opportunities, which are thus abused, to inform you that *no further communications will be received from you.*"

That this was a bold step, the most resolute will allow; nor was it less bold in manner, than in design. That the Administration

calculated upon this very boldness, to pass off their conduct upon the people, as fit and proper, there can be no doubt; presuming they would take it upon trust, without stopping to subject it to a scrupulous examination. They supposed that, if, along with such language, the cry could also be sent forth, of—" *Rally round your government,*"—the business would be accomplished at a blow; thus venturing upon the very verge of phrenzy, in their desperate determination to frustrate the negotiation, at all events.

Surprised at receiving the above extraordinary letter, Mr. Jackson, after waiting a few days, sent the Secretary of Legation, Mr. Oakley, with a *note verbale*, desiring him to ask for special passports or safeguards from the government, in consequence of the abusive language that had been made use of towards certain of the officers who had accompanied the embassy, and the assault that had been made upon them; and also alluding to the language of certain newspapers. These passports were, after much childish delay, granted; but, what was the answer at first given by Mr. Smith to Mr. Oakley, especially in regard to the newspapers, is yet a mystery. Until it appears, I shall only advise both the *Whig* and the *Aurora*, not to make love too violently to Sir Robert Smith; because, if I have not been misinformed, after Mr. Oakley's statement shall have come back to this country, we shall be amused with a scene between these two distinguished prints and Sir Robert, in which a true specimen will be given of the *ira amantium*, without the *integratio amoris*.

Mr. Oakley, was also sent to deliver the Secretary of State, the following verbal message:

"That Mr. Jackson has seen with much regret that *facts*, which it has been his duty to state in his official correspondence, have been deemed by the American government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the Minister charged by his Sovereign with that negotiation, so interesting to both nations, and on one point of which, an answer has not even been returned to an official and written overture.

"One of these facts alluded to has been admitted by the Secretary of State himself, in his letter of the 19th October, viz. that the three conditions forming the substance of Mr. Erskine's original instructions were submitted to him by that gentleman. The other, viz. that that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received.

"In stating these facts and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American government, as most certainly none COULD BE INTENDED ON HIS PART; but since he has been informed by the Secretary of State that no further communications will be received from him, he conceives that he has no alternative left, that is consistent with what is due to the King's dignity, but to withdraw altogether from the seat of the American government, and await the arrival of his Majesty's commands upon the unlooked for turn which has thus been given to his affairs in this country."

This note, so important and so interesting, has been hitherto, to my extreme surprise, almost wholly overlooked, both in Congress and in the federal prints; yet it is a note, were there nothing else, altogether *decisive of the point in dispute*. I must beg of the reader to peruse it once more.—It is, I aver, *conclusive against the administration*.

It would have been amply sufficient to take from them their ground of *insult*, had this note merely disavowed the *intention* to offend.—*An insult*, I understand to be, *an affront designedly given, in a manner expressive of contempt*. I also understand, that whenever the person who has given such affront, so far retracts, as voluntarily to explain, and to say, that he *meant not* to give it, the person offended, is bound, in usage and in good sense, to admit the explanation: and for this very plain reason, that such explanation is utterly inconsistent with the pre-conceived supposition of *design* in the offender, both as to substance and manner.—What is the language employed by Mr. Jackson in his note?—He begins by expressing his sorrow that the mere statement of certain *facts* should have been thought a sufficient motive for a rupture. Is *this* reconcileable with designed affront and contempt?—He then gives the grounds on which he had advanced those facts:—As to *one* of them, the Secretary of State, he observes, had, himself admitted it—As to the other, that it was recorded in his own instruction, and therefore made his duty to adhere to it.—Is *this* reconcileable with designed affront and contempt?—He concludes thus:

“In stating *these facts* and in *adhering to them*, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that any offence would be taken at it, by the American government—as most certainly—**NONE WAS INTENDED.**”

Who will undertake to reconcile such language as this with a design to affront and to accompany the affront with an expression of contempt?—On the contrary, is it not indubitably clear, that, Mr. Jackson, so far from having intended to insult the government in the manner alluded to, did not, at the time of penning the above note, even understand in what the offence consisted?—Is it not apparent, that at this time, he had not even guessed at their meaning?—It unquestionably is—For if he had, he never could have written such a note: He never could have undertaken, in this note, to conciliate, by explaining as to two certain facts, which two facts were no longer questioned, or objected to, by the administration.—This is acknowledged in Mr. Smith's November letter, (and has been more than once already quoted) in which he declares that it was never objected to Mr. Jackson that he had stated these two facts. I venture, then, boldly to say, that Mr. Jackson never did understand in what the offence consisted until he saw that November letter; any more than any body else did.—If he had, he never could, I repeat it, he never could have written

the above note. We perceive that in this note, he reposes himself on his imperious duty, for his justification in having so stated and adhered to these facts. Surely, even Mr. Smith will not be quite so extravagant as to believe that Mr. Jackson could mean to justify an insult to the government, as a matter of imperious duty. But why waste words?

Mr. Jackson, it appears, not only at the time of writing the above note, but all along, had never even understood what Mr. Smith, *would be at*, (to use a vulgar phrase); and of this it was impossible that Mr. Smith could have been ignorant; certainly not, after receiving the above note. Why, then, and let the champions of administration answer me, why did not Mr. Smith take that opportunity to explain his meaning? Why, but because he saw the readiness in Mr. Jackson to come forward frankly and declare, that *offence had been taken where none was intended*; thus neutralizing the pretended insult with the drop of a single expression? Would Mr. Smith have omitted to do this, let me ask again, and with emphasis let me ask it, had he really entertained one single particle of that "desire to unite, in all the means best calculated to establish the relations of the two countries," of which, with a solemn air of hypocrisy, he makes such a disgusting display in his unprecedented and audacious letter to Mr. Pinckney?

No. 29.

Mr. Jackson's Circular Letter.—(Conclusion.)

On the 12th of January, the following *thing*, a perfect Non-descript in legislation, made its appearance under the sanction of the three branches of the government.

[BY AUTHORITY.]

"Resolved, *by the Senate and House of Representatives of the United States of America, in Congress assembled*, that the expressions contained in the official letter of Francis J. Jackson, Minister Plenipotentiary of his Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State *conveying the idea* that the executive government of the United States *had a knowledge*, that the arrangement lately made by Mr. Erskine, his predecessor, in behalf of his government, with the government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose, were highly indecorous, and insolent. That the *repetition* of the same intimation in his official letter, dated the 4th of November, 1809, after he was apprised by the asseveration of the Secretary of State, that the executive government *had no such knowledge*, and that if it had possessed such knowledge, such arrangement would not have been entered into on the part of the United States; and after also being officially apprised, that such intimation was inadmissible, was *still more* insolent and affronting; and that refusing to receive any further communications from him in consequence of these outrageous and premeditated insults, the executive government has manifested a just regard to its own dignity and honour, as well as to the character and interest of the American people. That the letter signed Francis J. Jackson, headed "Circular," dated 13th of November, 1809, and published

and circulated through the country, is a *still more* direct and aggravated insult and affront to the American people and their government, as it is evidently *an insidious attempt to excite their resentments and distrusts* against their own government by appealing to them, through *false or fallacious disguises*, against some of its acts; and to excite resentments and divisions amongst the people themselves, which can only be dishonourable to their own characters and ruinous to their own interests; and the Congress of the United States do hereby solemnly pledge themselves to the American people, and to the world to stand by and support the executive government in its refusal to receive any further communications from the said Francis J. Jackson, and to call into action the whole force of the nation, if it should become necessary in consequence of the conduct of the executive government in this respect to repel such insults, and to assert and maintain the rights, the honor, and the interests of the United States.

J. B. VARNUM,

Speaker of the House of Representatives.

GEO. CLINTON,

Vice-President of the United States and President of the Senate.

January 12, 1810—

APPROVED,

JAMES MADISON.

The putative father of this legislative monster is William B. Giles, a man every way well suited to the occasion. His character has lately been drawn by a brother Virginian, and stares us in the face, in such colours as these: "This man, (says Mr. Randolph) although ignorant and illiterate, and vulgar as themselves, [the Baltimore Smiths] possesses, in a high degree, talents of a certain sort. He is every way calculated to have been a tool of Marat or of Danton and Robespierre, and, like those worthies of jacobinism, is a fit precursor of an "Emperor of the two Americas." His knowledge, although chiefly confined to Hoyle's games, and what he has picked up at the ordinaries and cross roads of Virginia, and from the brothels and gaming houses of Philadelphia, is far from being despicable. Such as it is, it is suited to the part he is destined, and which, alone, he is fitted to act: and when aided by his utter destitution of principle, and enforced by his impudence, is truly formidable.—Having none of his own to protect, he has the greater leisure to take charge of the honour of his country."—"He is every way well calculated to set brave men and generous nations by the ears, while he hobbles off with the spoil."—Such is the character of William B. Giles, as it has been drawn by a master artist; one who knew him well, and whose acknowledged integrity is a perfect security against any designed injustice. And truly it required no less than the combined qualities of such a character, to bring forward, and to push through the national legislature such a farce as this; such a solemn mockery of the understanding; such a scandalous abuse of the credulity, and the confidence of the nation. To criticise it minutely would lead me into too wide a field: my remarks shall be brief.

In the first place, we observe that the act is duly assigned by the President of the United States; thus graciously accepting the solemn pledge of his solemn Congress, to stand by him, and put arms into the hands of the whole people, to support him in his re-

fusul to receive any further communication from Mr. Jackson. Were it not that the interests, if not the safety of the nation, are at stake, so ridiculous a scene, acted with such pompous gravity, might move us to derision, but considerations of too alarming a nature, present themselves to our reflections to permit the indulgence of levity. And we will, therefore, proceed in the examination of our subject, in sober seriousness, and indeed in very sadness too.

If assertions, alone, could convince, we had assertions, enough, before ; we had Mr. Smith's assertions, and we had Mr. Madison's assertions ; but, unfortunately, along with their assertions, we had the evidence on which the assertions were founded, and therefore, we were compelled, either to renounce all exercise of our understandings, or to refuse our assent to what our senses informed us was not true. At length, it seems, the Congress of the United States, assuming the same tyranny over our minds, that they have already begun to exercise over the body, in the case of refractory members in the minority, (who are reduced to the alternative of going without sleep and food, or giving way to the pleasure of the majority, in silence,*) this same Congress have now undertaken to create and establish facts by a vote of both houses. Moderate, timid, time-serving men may, perhaps, think it prudent to submit quietly to authority, and acknowledge, they stand ready to allow, that a part is greater than a whole, or that two and two make five, whenever Congress may chose to resolve it to be so : But I, for my part, can never bring myself to believe that it is in the power of our rulers, to make or to alter facts by a vote ; any more than it is in their power to inflict disgrace, or to confer lasting honour. This attempt to create and establish facts by a vote, has, however, been made, and has so far succeeded, as to place upon the national records, a resolve, which cannot fail to excite the mingled emotions of astonishment and contempt in the mind of every reflecting American ; and which, by discovering to the world that " the government is weak and distracted," and that " distrust and dissensions prevail among the people," must inevitably be followed by the " total loss of respect in the eyes of all foreign powers."

As a legislative act, it is every way exceptionable. In the first place, being a matter of record and a precedent, it is materially defective in not fixing upon, and reciting the expressions alleged to be insolent and affrontive, instead of referring to them, and that in so vague a manner, as to leave it conjectural what they are. Second, if the charge alleged be true, as stated, then I say, that the President was wanting in both self and official respect in stopping short of ordering Mr. Jackson to leave the country.—

* Alluding to the recent attempt to smother all debate by an arbitrary and silent vote.

Thirdly, the *resolution* is at variance with the *charge*, as first advanced by the government; the resolution declaring that the insolent expressions are to be found somewhere in the letter of the 23d of October, and the government declaring that the letter of the 23d only *repeated* them, and of course, that they are to be found somewhere in a letter preceding, viz. that of the 11th.—In short, there is a total want of correctness, of dignity, and of truth and justice in the whole proceeding: from the first accusation of Mr. Smith, throughout the resolution, and every stage of the debate upon it, down to the compulsory vote, which cast a blot upon our legislative annals, that time cannot wipe away.

When I look at the conduct of those who have been engaged in the late despicable juggle; from before the abortive arrangement, down to the rupture, and from the rupture down to this time; especially when I look at the crookedness of the path they have taken to elude pursuit; at the multiplied manœuvres to which they have had recourse to avoid detection, and exposure; heaping absurdity upon absurdity; entangling themselves in one contradiction after another, and still going on, unsatisfied with all they had done, least some crevice should yet be left; still trying to do more; crowding assertion upon assertion, in every shape, individually & officially, & to crown the whole, incorporating all these assertions into a solemn legislative act, and enacting them by law to be truths; I confess it extorts my pity and compassion, while it rouses my indignation.—“It is a very singular circumstance, in the genius of guilt, (says a spirited writer, of the last century,) that it is ever apprehensive of discovery, ever endeavouring to secure itself against it, and ever discovering itself by the act. This is as striking in itself, as it is happy in its consequences, for man. Honesty stands firm upon its own unfailing base. It needs no exposure. It shows not solicitude. It uses not any preventive arts. But guilt is continually shifting its ground. It is always haunted by suspicion, always on the watch for dangers, and always strengthening itself against them. And thus it is disclosing its dangers, its suspicions and its turpitude to an attentive eye. *The serpent points out the most vulnerable part of his body, by covering it cautiously with the rest.* The ***** never thinks himself secure, while he has time for securing himself still more. He will make ‘assurance doubly sure.’—He will ‘take a bond’ of fate itself, for his own preservation. And he will betray himself completely by all.”

But I must hasten to the discussion of the topic pointed out in the title of this number, as what was more particularly to engage our attention.—I mean the *Circular* letter, against which, the latter part of the Resolution is directed; and respecting which, the assertion is, that it is

“A still more direct and aggravated *insult and affront* to the American people and their government, as it is evidently an insidious attempt to excite their

resentments and distrusts against their own government, by appealing to them through *false or fallacious disguises* against some of its acts; and to excite resentments and divisions among the people themselves, which can, only, be dishonourable to their own characters, and ruinous to their own interests.’

Turning to the Circular itself, it is seen to contain the simple repetition of the two identical facts, which are stated in the Explanatory Note, considered in the last number, and nothing more; accompanied with similar expressions of regret at what had happened. This second advance, after the first had been so haughtily spurned at, must be considered by the world, as a still stronger proof of the conciliatory temper, and amicable disposition, on one side, as must its rejection, of the opposite temper and disposition, on the other side: proofs which never can be mistaken, nor, never, I venture to say, will be mistaken, on the other side of the Atlantic, notwithstanding the daring and persevering misrepresentations in America.

What astonishment must seize every man in Europe, at beholding the manner in which this Circular Letter is represented in a solemn act of the Congress of the United States?—What I ask, must be the unfeigned astonishment of every man in Europe, at reading this, accompanied by the evidence relating to it? Evidence in direct contradiction of every syllable it contains!—What will he say, when, instead of insult, he finds language the most conciliatory?—When, instead of affront, only expressions of regret?—When, instead of falsehood, he perceives that the only two facts contained in it, have been admitted by the Secretary of State himself, to be entirely unobjectionable?—When, instead of being published and circulated by the minister, he learns, that not a shadow of evidence, has ever been even offered of that fact; and that the truth is directly the reverse?—When, instead of an *appeal* to the American people for the base purposes alleged, he beholds in it, *merely* a letter of business, which it became the official duty of the head of the British agency, in this country, to write to the subordinate officers, for the purpose of informing them of his removal from Washington, and the place of his intended residence, for their own direction, in future: accompanied by a brief and necessary statement for the reasons of that removal, expressed in faultless language, and simply relating two facts; one resting on an official document from his own government, the other admitted in an official document from this?—But, lastly, and I solemnly put the question—I put it for the consideration of those who may one day have to answer it—how would his astonishment be increased to learn, that the very government who had been so sensitive to a constructive appeal to its own people, had themselves sent forth, and assiduously circulated, in the form of an official despatch, not merely an appeal to their own people, alone, but an appeal to the people of England?—a despatch published in the American prints to the people of Great Britain, through

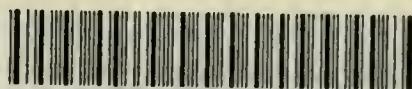
the prints there, before it could be presented to their government, through the proper organ?—What further would he say, when in looking into it, he found, that this appeal, not only contained a coloured statement of the dispute between the two countries, favourable to our own, and unfavourable to Great Britain, but that it indecorously arraigned by name, a leading member of her administration, and one of the king's privy councillors, on important charges, utterly false and unfounded; and that it went the length of contradicting, without any delicacy of expression, the representative of her sovereign here?—In a word, I ask, has the character of this proceeding been *yet* duly weighed?—Have its consequences been *yet* anticipated?—

To bring, at last, to its conclusion, all that my sense of duty has led me to offer on the letters and documents;—to draw to a single point the controversy upon the merits of which the public is to decide;—I appeal to every gentleman, to every man of the world, to every man of common sense, to every member of civilized society, I confidently appeal to him, I call upon him to say—whether, if between individuals an affront of even an aggravated nature had been given, and the party offending had voluntarily offered an explanation, in terms so satisfactory and conciliatory as those of the notes we have just read, whether, I say, it ought not so far to disarm of resentment the party offended, that he must feel himself compelled to accept of the same as satisfaction—The question admits of but one answer—Society lends not its countenance to that implacable and ferocious spirit which persists in demanding any greater sacrifice than this—This offered, punctilio is satisfied. If then, the laws of civilization demand, that, as between individuals, no calls of honour should stop here and loudly condemn every attempt to press them further, how much more inexorably do they demand, where the interests, the peace, and the welfare of a whole community are at stake?—The question I thus put is a solemn question.—Whatever a rash and desperate administration may flatter themselves with—I can tell them, this solemn question is *yet* to be answered.—The time approaches and it will assuredly come, when an indignant, and abused, and insulted people, will insist on their answer to it:—when they will demand their answer, in a tone that will carry dismay into the walls of the palace, and appal the stoutest heart among them.









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